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VOLUME I

STUDIES IN AMERICAN HISTORY

McCORMAC — SMITH — HUGHES

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STUDIES IN AMERICAN HISTORY

I

CONTENTS

		PAGES
No. 1.	Colonial Opposition to Imperial Authority During the French and Indian War, by Eugene Irving McCormac	1– 98
	I. General View	1– 17
	II. New England	17– 26
	Massachusetts	17– 20
	Connecticut	20– 22
	Rhode Island	22– 24
	New Hampshire	24– 26
	III. The Middle Colonies	26– 74
	New York	26– 31
	New Jersey	31– 34
	Pennsylvania	34– 63
	Maryland	63– 74
	IV. The Southern Colonies	74– 92
	Virginia	74– 85
	North Carolina	85– 88
	South Carolina	88– 89
	Georgia	89– 92
	Conclusion	92– 98
	Bibliography	97– 98
No. 2.	The Viceroy of New Spain, by Donald E. Smith	98–293
	I. Historical Introduction	98–122
	II. The Relations of the Viceroy with the Home Government	123–158
	III. The Viceroy as Governor	159–192
	IV. The Viceroy as Captain-General	193–228
	V. The Viceroy as Vice-Patron	229–247
	VI. The Reforms of Gálvez	248–275
	VII. Conclusion	276–284
	Bibliographical Note	284–287
	Bibliography	288–293

PAGES

No. 3. The Beginnings of Spanish Settlement in the El Paso District, by Anne E. Hughes 295–392

I. Introductory: Spanish Expansion into New Mexico and Nueva Vizcaya 295–302

Bibliographical Note 301–302

II. Early Missions and Settlers in the El Paso District, 1659–1680 303–314

III. The Coming of the Refugees from Santa Fé, 1680 315–323

IV. The Founding of the Presidio and the Reorganization of the Settlements, 1683 324–333

V. The Revolt of the Mansos and their Neighbors 334–364

VI. The Consolidation of the Settlements in 1684 365–370

VII. Efforts to Abandon El Paso, 1684–1685 371–381

VIII. The Quarrel with Nueva Vizcaya over Jurisdiction. 382–387

IX. Conclusion: Summary of Settlement in the El Paso District, 1659–1685 388–392

Index to the Volume 393–406

COLONIAL OPPOSITION TO IMPERIAL AUTHORITY DURING THE FRENCH AND INDIAN WAR

EUGENE IRVING McCORMAC

I. GENERAL VIEW

From the standpoint of constitutional history the period covered by the French and Indian War deserves a more careful and exhaustive study than has been given it by those who have written upon American colonial history. Only recently has a book appeared that seems to grasp the true relation of this period to the stormy one which followed it. Beer in his *British Colonial Policy, 1754-1765*, has given a valuable treatment of the policy of the mother country, and has incidentally touched upon the peculiar ideas and characteristics of the colonists; but the subject with which he deals necessarily does not include a study of constitutional development within the colonies.

Many writers have pointed out a connection between this war and the American Revolution by showing how the expulsion of the French and the incurring of a war debt furnished an excuse for the new colonial policy inaugurated by the Tory party in England. There are, however, many other questions which connect the two movements as vitally, if more remotely, as those usually discussed.

In a recent publication it is explicitly stated that "England and America entered on a dispute as to the distribution of

power and the principles of government"[1] with the passage of the Stamp Act. It is more nearly true to say that the Stamp Act and others which followed it were the result of disputes which arose in connection with every phase of the war with France. It is not contended that all of the anti-imperial and independent ideas of the colonists originated during this war, for many of them appeared earlier; but never before had the Americans so thoroughly elucidated their ideas on constitutional questions, and never before had they so clearly defined the position which they meant to maintain.

Hardly an issue which disturbed the relations between colonies and mother country between the passage of the Stamp Act and the Declaration of Independence was new. These issues had in one form or another been thrashed over in the controversies of the various assemblies with their governors, and the opinions of the colonists concerning them were formed and crystallized. The grounds upon which the colonists claimed exemption from British taxation and restrictions in the later period were by no means new; they had been asserted again and again in substantially the same terms during the war with France. The conditions in the two periods were similar and they called forth similar ideas, protests, and demands on the part of the Americans. In both cases the mother country attempted to procure assistance and to exact obedience from the colonies, and these attempts were resisted by the latter, who contended that such interference by England was an attack upon their long cherished "rights." That a declaration of independence and a separation did not come in the earlier period was due more to the want of a well-defined policy on either side of the Atlantic than to an absence of independent ideas in the colonies. This tendency to resist authority was more pronounced in some colonies than in others, and it took some time to develop a policy of concerted action; but it existed, nevertheless, in all of them, and it needed only additional pressure on the part of crown officials to develop this tendency into armed resistance.

[1] McLaughlin, *The Confederation and the Constitution*, 313-314.

The object of attack depended upon the character of the colonial government, in other words, upon the source of outside restraint. In proprietary colonies it was the alleged usurpations of the proprietor which must be opposed and defeated. If the proprietor could be overthrown entirely, so much the better. In these colonies there were usually unstinted professions of loyalty to the king, whose good will might be of service in overthrowing the proprietor. In royal colonies it was the governor who was continually accused of trampling under foot the "rights of his Majesty's faithful and loyal subjects." In the charter colonies there was little friction between the legislative and executive branches of government, for both were elected by and responsible to the people, but there was the same determination to preserve all charter rights and to acquire others if possible. Whatever the source, all outside authority must be resisted. When, at the close of the French and Indian War, Parliament became the instrument for enforcing such authority, the colonies at last united in common effort to resist and finally to overthrow all British control.

But coupled with this tenacious insistence upon acquired rights was another trait of the colonists which weakened materially their power of resistance. This was their utter lack of unity, their limited horizon, and their jealousy of one another.[2] The spirit of patriotism and national loyalty in the modern sense seems to have been almost entirely lacking. In a sense they gloried in being Englishmen and they hated the common enemy; but whenever the general welfare of the empire required them to sacrifice any of their cherished rights (however small) or to abandon a profitable trade with the enemy, they invariably chose the policy best suited to their own individual interests. This want of unity continued during the period which followed the war with France, but it was overcome in part on the eve of

[2] Burnaby, whose account of actual conditions is more valuable than his prophecies, wrote in 1759: ". . . . fire and water are not more heterogeneous than the different colonies in North America. Nothing can exceed the jealousy and emulation which they possess in regard to each other." *Travels*, in Pinkerton, *Voyages*, xiii, 751-752.

the Revolution by the efficient work of the committees of correspondence. These committees were effective instruments of agitation. They aroused public opinion and centered it upon the common danger. They caused local grievances, such as the closing of Boston harbor, to be adopted by other colonies. By spreading information and molding public opinion they created enthusiasm for the cause and overcame, for a time at least, the indifference which was so apparent during the French war.

When Governor Dinwiddie of Virginia learned from the defiant answer given to Major Washington in 1753 that the French meant to back their pretensions by force, he called upon the other colonies for assistance. "But the colonies, alas!" exclaimed a contemporary writer, "were sunk into a profound lethargy; and, resigned to stupidity and slumbering, appeared insensible of the threatening danger."[3] This charge, though severe, is substantiated by the records of the various colonies. They underrated the power of the French. They knew little and cared less about the western country, and they even questioned the title of the British crown to these lands.[4]

None knew better than the French the unprepared condition of the English colonists and their want of unity. The French considered early occupation and a defensive position of greater importance than the larger numbers of the English. "They declare without reserve," wrote Governor Dinwiddie, "that altho' we are vastly superior to them in Numbers, yet they can take and secure the Co't'y before we can agree to hinder them."[5] Still stronger evidence is found in a letter from Duquesne himself in which he said "The Governors of New England [mean-

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[3] *Review of Military Operations*, in *Coll. Mass. Hist. Soc.*, ser. 1, viii, 72, 73.

[4] *Ibid.*

[5] Dinwiddie to Secretary Robinson, June 8, 1754. *Col. Rec. of N. C.*, v, 129. In writing to Governor DeLancey of New York for troops, Dinwiddie says that if the colonies concur "I shall hope the Consequences will be to show our Enemies how far they were mistaken in their Sarcasm they threw out, that tho' they owned, We could bring two men to their one, yet, that we were too slow, and disconnected, to hinder the progress of their Undertakings." Jan. 29, 1754. *Pa. Arch.*, ser. 2, vi, 179-180.

ing, probably, all the English colonies], besides being independent one of the other, cannot levy troops without an order of the King of Great Britain,[6] and you will have observed by Mr Washington's Journal that all the Provinces have furnished a quota to his detachment. I know, moreover, that the Quakers, who never make war, have also furnished their contingent."[7] The obvious meaning of this letter is that he considered such measures illegal, and mere bluster on the part of the colonists.

The French colonists and army were more directly under the control of the king, and, as they did not possess so many "rights" which must be defended, their military operations could be conducted with secrecy and dispatch. In the British colonies every plan had to be fought over in the assemblies before it could even be attempted, and the enemy always had ample opportunity to learn its details in advance.[8]

As Virginia took a greater interest in the Ohio country than the other colonies, she was naturally the first to act in its defense, and her governor, Dinwiddie, at once took steps to repel the invaders. But his enthusiasm was checked from the beginning by his reluctant assembly. They voted £1000 for raising and equipping three hundred men for defending the frontier, but the governor complained that they "were much divided" and failed to do as much as he had asked.[9] The surrounding colonies, however, were still less generous, for Dinwiddie had written only a week before to Secretary Robinson that "every Gov't except No. Caro. has amus'd me with Expectations that have proved fruitless, and at length refused to give any Supply, unless in such a manner as must render it ineffectual."[10]

The Pennsylvania assembly answered their governor's appeal for aid with a reply that was characteristic of their attitude throughout the war. They refused to vote assistance because

[6] War was not formally declared until May, 1756.

[7] *Pa. Arch.*, ser 2, vi, 173. Duquesne to DeMachault, Oct. 28, 1754.

[8] *Coll. Mass. Hist. Soc.*, ser. 1, vii, 161-162.

[9] *Col. Rec. of N. C.*, v, 110. To President Rowan of North Carolina, March 23, 1754.

[10] *Ibid.*, 129.

it had not been made clear to them that the subjects of a foreign prince had erected forts "within the undoubted Limits of this Government." The limits "had not been ascertained to y^eir satisfaction."[11] As the war progressed it seemed difficult to prove this or anything else to their satisfaction.[12]

The assembly of New York required equally strong proof of ownership before they would vote aid to the king. "It appears," they said in an address to the lieutenant-governor, "by papers your Honor has been pleased to communicate to us, that the French have built a fort at a place called French Creek, at a considerable distance from the river Ohio, which may, but does not by any evidence or information appear to us to be an invasion of any of his Majesty's colonies."[13] This was rather an impertinent stand to take when the British government had already decided that its territory had been invaded. The assembly finally decided to vote £1000 for the purpose of sending two companies to Virginia, but the money was to be raised in a manner which the council declared contrary to the king's instructions and therefore refused to allow. The perennial quarrel over a permanent salary for the governor was also in progress, and when the present bill was not allowed by the council, the assembly refused to pass another. DeLancey thought that the council was also at fault in not waiving its grounds during this critical situation, but the king severely criticised the assembly for their declaration and their refusal on such "trifling" grounds to grant aid.[14]

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[11] *Pa. Arch., 1748-56*, ii, 235. Resolution of the assembly, March 8, 1754.

[12] Another excuse given for refusing aid was that the Earl of Holdernesse had asked for aid against the French *within* their respective provinces, and as the boundary line between Pennsylvania and Virginia had never been settled, they feared that they might invade Virginia in pursuit of the enemy. They would wait, therefore, to see what Virginia would do. The governor explained that the earl had meant to ask for aid to defend all of the king's lands, and that the governor of Virginia had asked for assistance, but the assembly refused to be convinced and adjourned without granting the aid. *Pa. Col. Rec.*, v, 763-765.

[13] *Coll. Mass. Hist. Soc.*, ser. 1, vii, 72-73. Address of the New York Assembly, April 23, 1754.

[14] *Pa. Arch.*, ser. 2, vi, 188, 192, 196. Letters of DeLancey and Secretary Robinson.

During the entire summer of 1754 Governor Dinwiddie was unable to procure sufficient assistance to enable him to assume the offensive. Governor Sharpe, on November 5, wrote to Lord Bury that Dinwiddie, having secured but three hundred men from Virginia, two companies from New York, one from South Carolina, and three hundred men from North Carolina, was forced to abandon his plans for the present.[15] It will be shown later that even this nominal assistance was of little value.

When we consider that the ravages of the French and Indians were at least as disastrous to the colonies as to the empire in general, and that it was their property and lives that were at stake, it does not seem that the requirements of the mother country were unreasonable. England asked that the troops be supplied with provisions by the colonies and that the officers be conveyed from place to place. The colonial governments were required to assist in executing the orders of British officers for quartering troops, impressing carriages, and equipping forts. In addition, each colony was asked to contribute to a common fund for the general protection.[16] Of course both sides considered that England owed the colonies protection from foreign enemies in return for obedience and advantages she received from the colonies[17]; nevertheless no theory of this kind could excuse the conduct of colonial assemblies in allowing the inhabitants to be butchered while they were haggling over mere technicalities. The governors in many cases were equally culpable in obstructing legislation for trivial reasons. Some of the governors adhered too rigidly to the letter of their instructions, or even enlarged upon them, which tended to intensify the discord.

The British government looked to the governors to enforce its orders, and the position of those officials was by no means an enviable one. In general the governors tried to perform their duties to the crown, but as Dinwiddie wrote in 1754, "A Governor in the Discharge of His Duty to his King and Country, is

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[15] *Corresp. of Gov. Sharpe*, i, 115.

[16] *Ibid.*, 108, Secretary Robinson to Sharpe.

[17] See Beer, *British Colonial Policy, 1754-1765*, chap. 1.

much to be pittied, when its considered his Transactions with an obstinate Assembly; Full of their own opinions, & entirely deaf to Argument & Reason."[18] This of course is only a governor's side of the controversy, but the records bear out his statement.

From the beginning the New England colonies, particularly Massachusetts, showed public spirit and liberality in furnishing aid to repel the enemy,[19] and some of the southern governors in desperation asked them for aid when the southern assemblies would do nothing for their own defense. Governor Sharpe of Maryland admitted that he had little reason for expecting assistance from New England "while they see us in a State of almost total inactivity or Supineness," but seeing no other means of getting supplies he asked aid from New Hampshire, Rhode Island, and Connecticut.[20] He had little faith in the loyalty of any of the colonial legislatures, for in the same letter he added "I have learnt not to entertain very sanguine hopes of the Resolutions of American Assemblies . . . As often as they have been convened urged and intreated to aid each other in defending his Majesty's Territories & their own Properties so often almost have they as it were unanimously refused to provide against the Dangers that threaten them or endeavored to cast the Odium on their respective Gover^rs by laying them under a necessity of rejecting such Bills as were presented them with the specious Titles of Acts for His Majesty's Service & the better Defense & Security of the British Colonies." This letter was not written for publication nor for the purpose of exerting influence in official circles. It was a private letter to his brothers and no doubt expressed the governor's sincere opinion of the situation. In it he seems to have struck the key-note of the policy of many of the colonial governments, particularly of Maryland and Pennsylvania. This policy was to make effusive professions of generosity to the king, and then to claim that it

[18] *Corresp. of Gov. Sharpe*, i, 97. Dinwiddie to Sharpe, Sept. 5, 1754.

[19] *Ibid.*, 110, Sharpe to W. and J. Sharpe.

[20] *Ibid.*

was due wholly to arbitrary instructions from proprietors or vetoes by governors that they were unable to assist. In the two provinces just mentioned the assemblies saw in the disastrous conditions of the time an opportunity to weaken if not entirely to overthrow proprietary rule.

When the aggressive plans of the French became known, those in authority, both in England and America, began to consider some form of concerted action to be taken either by the colonies acting alone or by the colonies acting under parliamentary regulations. The governors, generally, believed that little could be accomplished unless Parliament should assume control and enforce its authority. Such a plan had been suggested to Newcastle by Bedford in 1748 as a result of the independent attitude of the colonies during King George's War. He recommended that a strong man be put at the head of the Board of Trade and the Earl of Halifax was chosen for the position.[21] Without a vigorous Board new laws would not bring about the desired results.

When Halifax assumed office he found letters from various colonial governors complaining of insubordination and republican tendencies in the colonies. The governor of New York could not "meet the Assembly, without danger of exposing the king's authority" and himself to contempt.[22] Governor Glen of South Carolina reported that "Here, levelling principles prevail; the frame of civil government is unhinged; a governor, if he would be idolized, must betray his trust; . . . . to preserve the dependence of America in general, the Constitution must be new modelled."[23] Similar complaints came from Massachusetts, Virginia, Pennsylvania, and New Jersey.[24] Though somewhat exaggerated, these many charges could hardly fail to have weight with the home government.

Halifax proceeded with more energy than tact to instruct

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[21] Bancroft, *History of the United States*, ed. 22, iv, 36.

[22] Clinton to Bedford, Oct. 20, 1748. Quoted by Bancroft, iv, 36.

[23] Letters of Glen to Bedford, July 27 and Oct. 10, 1748. Quoted by Bancroft, iv, 38.

[24] Bancroft, iv, 38-40.

the governors to enforce a more rigid policy, but as the encroachments of the French soon occupied their attention, little was attained except to arouse suspicion in the colonies and to make them more determined to oppose any centralizing measures of the British government.

When hostilities began in 1754, General Shirley, who from the first was one of the most active governors, doubted that the colonies would ever agree on quotas and other matters of assistance unless the proportions were fixed in England. Past experience, he said, taught that they had never been able to agree on these matters, and unless they were now fixed by the king and enforced by law, no adequate protection could be expected. Quotas had been fixed in the reign of William III, but conditions had changed since then. In his opinion no union of the colonies except one controlled by England would ever accomplish the desired results.[25] Shirley was one of the first to suggest a union of the colonies and he urged that delegates to the Albany convention be given adequate powers.[26]

The Albany convention and the reception of the plan there adopted demonstrated that no union could be formed by the colonies that would be satisfactory to themselves or to the British government. All agreed that a union of some kind was desirable, but neither the colonies nor England was willing to concede the things necessary to bring it about. The colonies agreed on the necessity of winning the good will of the Indians at this time, and nearly all of them voted money with little hesitation to secure it, but Massachusetts alone gave her delegates full power to enter into a union.[27] New Jersey refused either to

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[25] *Pa. Arch.*, ser. 2, iv, 174-177. Shirley to Holdernesse, Jan. 7, 1754. Governor Hamilton of Pennsylvania had declared as early as 1753 that there would be no union unless the ministry should compel the colonies to form one. All former attempts had failed because of the "mutual and injudicious jealousies" of the colonies. He added that the principles "either real or pretended" of the Pennsylvania assembly will prevent its entering into a union or doing anything of a warlike nature. *Pa. Col. Rec.*, vi, 632.

[26] *Pa. Col. Rec.*, iv, 19. Shirley to Hamilton, March 4, 1754.

[27] *Pa. Arch., 1748-56*, ii, 137. Commission given by Governor Shirley; *Pa. Arch.*, ser. 2, vi, 213-218, Shirley to Robinson.

vote money or to send delegates to Albany, giving as excuse that she had no commercial relations with the Six Nations. This excuse was pronounced frivolous by the Board of Trade who censured the colony for its indifference and lack of obedience to the king's orders.[28] Pennsylvania gave full power to her commissioners to conclude a treaty with the Indians and to give money,[29] but nothing was said about a union with the other colonies.[30] Rhode Island gave her delegates authority to *consult* on methods of securing the good will of the Indians and protection against the French "And in General, as far as the abilities of this Government will permit, to act in Conjunction with the said Commissioners in every thing Necessary for the good of his Majesty's Subjects in these Parts."[31] This qualified authority was little better than none at all, and the commission of the Connecticut delegates was equally devoid of authority. They were to meet and consult with the other commissioners and "to use and pursue proper measures in pursuance of their (your) instructions from the said General Assembly."[32] Even the appointment of delegates was made by the assembly and not by the governor. The New Hampshire commissioners were given full power to conclude a treaty with the Indians, but none to enter into a union.[33] Maryland voted £500 for the Indians, but on any scheme of defense her delegates were given no authority to act. They were simply to "observe the propositions" and report all plans to Governor Sharpe, but to agree to no plan for men or forts.[34] Virginia sent no delegates to Albany because Governor Dinwiddie was himself negotiating with the Indians, but about a year afterward, when General

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[28] *N. J. Arch.*, ser. 1, viii, part 1, 294-295.

[29] The assembly was willing to vote "a small Present" but could not be expected to "make it very large at this Time" on account of heavy expenses. Answer to the governor. *Pa. Col. Rec.*, v, 749.

[30] Commission. *Pa. Arch., 1748-56*, ii, 142-143.

[31] *Ibid.*, 141-142.

[32] *Ibid.*, 140-141.

[33] *Ibid.*, 138.

[34] *Ibid.*, 139-140.

Shirley asked the assembly to send commissioners to meet those from other colonies, they "immediately made Resolve against it."[35]

It is well known that none of the colonies accepted the plan of union prepared by the convention at Albany because they considered that by it too much power would be taken from their hands. Some of them voted it down with silent contempt, while a few strenuously opposed it as a serious menace to their liberties. A committee of the Connecticut assembly appointed to consider the plan thought that the general taxing power given to the President-General and Council was "a very extraordinary thing, and against the rights and privileges of Englishmen in general." It would be an "innovation" and "breach on charter privileges" and "greatly discourage and dishearten his Majesty's good subjects." If the President-General were given power to appoint military officers, they said, the "youth would not enlist."[36] The assembly stated that the Connecticut commissioners opposed the plan while at Albany and refused assent to it,[37] but both Franklin and Hutchinson who were members of the convention said that it was unanimously adopted.[38]

Although Massachusetts gave her delegates larger powers than other colonies, the plan of union when submitted for ratification was rejected. A "large body of people assembled in town-meeting" at Boston to consider the plan disapproved by a decided majority. Dr. William Clarke, one of the number, wrote Franklin that the projected plan for union was a "scheme for the destroying the liberties and privileges of every British subject upon the continent."[39]

The Pennsylvania assembly denied the binding force of any general union even in Indian affairs, asserting that "we con-

[35] *Pa. Arch., 1748-56*, ii, 446.

[36] *Coll. Mass. Hist. Soc.*, ser. 1, vii, 208-209.

[37] *Ibid.*, 213.

[38] Franklin, *Works*, i, 177; Hutchinson, *History of Massachusetts Bay*, iii, 23. Another contemporary said that "every member of the congress, except Mr. DeLancey," approved the plan. *Coll. Mass. Hist. Soc.*, ser. 1, vii, 77.

[39] *Coll. Mass. Hist. Soc.*, ser. 1, vi, 85-86.

sider that no Propositions for an Union of the Colonies in Indian Affairs can effectually answer the good Purposes, or be binding farther than they are confirmed by Laws enacted under the several Governments comprized in that Union."[40]

Rhode Island like Connecticut saw in the Albany plan a menace to her charter rights and took vigorous steps to defeat it. Her agent in England was "directed to be upon his watch, and if any thing shall be moved in Parliament, respecting the plan for a union of his Majesty's northern[41] colonies, projected at Albany, which may have a tendency to infringe on our chartered privileges, that he use his utmost endeavors to get it put off, until such time as the government is furnished with a copy, and have opportunity of making answer thereto."[42] Parliament, however, took no action in the matter.

The part of the Albany plan which the colonies considered most dangerous was that which gave taxing power to the Grand Council and President-General. They ignored the fact that this council was to possess the initiative and that its members were to be chosen from the colonies by the representatives of the people. This taxing power was to be limited to the levying of "duties, imposts or taxes" for general purposes only. It would make the general government self-supporting within its own limited sphere, but in other respects the integrity and autonomy of the separate governments would have remained as before. After years of bitter experience it was found necessary to grant such powers to the new federal government. It would be idle to speculate on the probable effect that the adoption of the Albany plan would have had in obviating or postponing the Revolution, for there was never any probability that such a measure would be acceptable to either side.

The British government and British officials in America opposed the plan prepared at Albany because it did not give

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[40] *Pa. Col. Rec.*, vi, 45.

[41] Besides the plan embracing all of the colonies, another plan was proposed at Albany for a union of six of the northern colonies. *Coll. Mass. Hist. Soc.*, ser. 1, vii, 203.

[42] Arnold, *History of Rhode Island*, ii, 191.

sufficient control to the mother country. General Shirley severely criticized it and declared that powers were assumed that belonged to the king. He likened it to the governments of Connecticut and Rhode Island which were practically independent of the crown. The latter especially had, in his opinion, abused its freedom. He believed that any attempt at union by the colonies themselves must prove futile because of their "different conditions, situations, circumstances and tempers." He did not believe that the commissioners who drafted the Albany plan had any expectation that it would be adopted; and if it had been adopted, it could never have been executed.[43] Governor Morris of Pennsylvania pronounced the plan too republican in principle, giving the crown little or no authority, and he did not wonder that it "was not relished at home." He rightly observed that any effective union must permit the general government to employ the colonial forces when and where it might be necessary.[44] This was a point which the colonists were never willing to concede, and their obstinacy hindered military operations throughout the war.

A treaty with the Six Nations was the immediate object of the meeting at Albany, and, as above stated, several of the colonies voted money and gave authority to their delegates on this subject while they refused to commit themselves on the question of union. The British government, also, fully realized the importance of an Indian alliance. In a report to the king on the Albany convention, the Board of Trade pointed out how impossible it was for individual colonies to deal successfully with the Indians, however good the intentions of any colony might be. New York had, up to this time, been the colony chiefly concerned with Indian affairs, but for various reasons—including duplicity and selfish dealing of the New York commissioners

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[43] *Pa. Arch.*, ser. 2, vi, 213-218; *N. Y. Col. Hist. Docs.*, vi, 930. Shirley to Secretary Robinson, Dec. 24, 1754. Hutchinson says in his *History of Massachusetts Bay* (iii, 23) that "some of the delegates who agreed to it in Albany doubted whether it would ever be approved of by the king, the parliament, or any of the American assemblies."

[44] *Pa. Arch., 1748-56*, ii, 499. Morris to Shirley.

—the Indians had lost faith in the English. The French had grasped the opportunity and by pursuing the opposite policy were winning the friendship of the Indians. For these reasons the Board of Trade asked the king to take charge of Indian affairs as the only remedy that could forestall the French.[45] Members of this board had already urged the importance of the friendship of the Six Nations and criticised the colonies for not exerting themselves to secure it. In a letter to DeLancey of New York they said, "The preserving and securing the friendship of these Indians is in the present situation of affairs an object of the greatest Importance it is from the steady adherence of these Indians to the British Interests that not only New York but all the other Northern Colonys have hitherto been secured from the fatal effects of the encroachments of a foreign power, and without their friendship and assistance all our efforts to check and disappoint the present view of this power may prove ineffectual." The advantages of such a treaty, they said, "are so apparent that we are at a loss to guess at the motives for the conduct of those Colony's who have declined joining in the treaty with them."[46] As nearly every colony had expressed an opinion that a general union was absolutely necessary, and as a convention such as the one held at Albany was the only method of forming one, the Board of Trade was both surprised and disappointed with the indifference and obstinacy of the colonies.[47]

Inability of the colonies to form a union for common defense made a bad impression upon the Indians whose friendship they were seeking. The Indians doubted the sincerity of the English and their ability to act with vigor and unanimity against the French. They were, therefore, not eager to form an alliance with the English.[48] No one could blame the Indians for not

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[45] Report, Oct. 29, 1754, *N. Y. Col. Hist. Docs.*, vi, 917-918; *Pa. Arch.*, ser. 2, vi, 206-210. This recommendation was soon acted upon and Sir William Johnson was appointed colonel of the Six Nations.

[46] *N. Y. Col. Hist. Docs.*, vi, 845-846; *Pa. Arch.*, ser. 2, vi, 193.

[47] *Ibid.*

[48] Sir William Johnson, *Suggestions*, etc., *in Pa. Arch.*, ser. 2, vi, 204.

wishing to aid what must inevitably be the losing side, for defeat would leave them at the mercy of their long-standing enemy.

With such want of unity admitted on all sides, and with such indifference and jealousy of everything outside of their own immediate localities, it is not at all surprising that the call for men and money to carry on the war met with opposition in the various colonies. In general they seemed to look upon the war as a struggle for empire on the part of the two mother countries. If successful, England would reap the benefits and should therefore pay the expenses. The colonies most exposed might see some immediate advantage in the success of England, but even they as a rule preferred to let the enemy do his worst, and unhindered, rather than yield the smallest of their much cherished "rights." Not only did they guard against yielding anything to the British government, but even the most energetic of them watched carefully the actions of other colonies, each government jealous lest it might do more than its share. For this reason Governor Shirley urged the Earl of Holdernesse to have the quotas fixed in England. Massachusetts had done something, he said, but hesitated to do more until Connecticut and other colonies should evince a disposition to do their share.[49] Maryland waited to see what Virginia and Pennsylvania would do before she would vote supplies, and Governor Sharpe dryly remarked that Fort Du Quesne "I believe is too strong for me to reduce by Virtue of His Excellency's Commission without either Men, Artillery, Money or Provisions."[50]

Governor Morris of Pennsylvania ventured the opinion in 1755 that Braddock's army need not have been sent to America if the colonies had not been divided and jealous, and their assemblies made up of men "unacquainted with the nature of government, & hav(ing) private and selfish ends to answer."[51] Morris had written a short time before this to Braddock that "The Conduct of the Assemblies upon the Continent almost

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[49] *Pa. Arch.*, ser. 2, vi, 174-177.

[50] *Corresp. of Gov. Sharpe*, i, 403. Sharpe to W. Sharpe, May 2, 1756.

[51] *Pa. Arch., 1748-56*, ii, 280.

without Exception has been so very absurd that they have suffered the French to take quiet Possession of the most advantageous Places, not only to answer the Purposes of a very extensive Indian Trade, but to enable them to protect their own Settlements and annoy ours; such are their Forts at Niagara, Crown Point, and the several ones upon Lake Erie, the River Ohio, and its Branches." The Indians, he added, had asked for aid, but the colonies would do nothing.[52]

Such were the conditions in the colonies when England called upon them for assistance in the war with the French. Public spirit and liberality could hardly be expected. It was not the expense alone which the colonies opposed (although according to a contemporary they were "parsimonious even to prodigality"),[53] but the whole system of imperial control. Each colony guarded jealously the "rights" which it prized more than the general welfare, and some of the assemblies saw in the urgent needs of the home government an opportunity to enlarge upon those "rights."

When hostilities with the French became inevitable, the king sent orders (October 7, 1754) to Governor Shirley of Massachusetts to enlist volunteers. All magistrates were required to assist in their official capacities.[54]

In the early part of the war royal orders required that only troops of proper age and size should be enlisted,[55] but before the struggle had proceeded far, almost any kind of troops was willingly accepted.

II. NEW ENGLAND

Massachusetts

In general the New England governments responded with more willingness and promptness than the other colonies. From

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[52] *Pa. Col. Rec.*, vi, 336. See also *Review of Military Operations*, etc., in *Coll. Mass. Hist. Soc.*, ser. 1, vii, 75.

[53] *Coll. Mass. Hist. Soc.*, ser. 1, vii, 161-162.

[54] *Pa. Arch.*, ser. 2, ii, 686.

[55] Distrust of Catholics led the king to issue orders forbidding their enlistment. e.g. *Pa. Arch.*, ser. 2, ii, 691-693, 700-701.

the first they took the lead in active military operations.[56] Both Massachusetts and Connecticut voted money liberally.[57] Massachusetts, especially, under the leadership of Governor Shirley, took a prominent part in all of the northern campaigns. Shirley was more popular than royal governors[58] in other colonies and during his administration the assembly usually granted munitions of war with little opposition. Shirley's success with his assembly was due in part to his diplomatic policy in dealing with them. "He generally urged the measures which he proposed to the assembly," said Hutchinson,[59] "as far as he could without worrying them and putting them out of temper, and no further." By representing to them that the money would be repaid by England he induced many of the members to withdraw their opposition and vote for military grants.[60] In 1756, when the assembly hesitated, Shirley again induced them to vote aid by urging that the surest way to "obtain a compensation for what they had already done would be by a further vigorous exertion." When they pleaded want of ability to borrow money on their credit to meet the present expense, Shirley met this objection by loaning them £30,000 sterling which had been sent over for the use of the royal troops.[61] Mr. Bollan, their agent in London, made the most of this alleged poverty in urging Parliament to reimburse the colony,[62] and contended that the colony had exhausted its resources in financing the Crown Point expedition. The fact that several of the members of the assembly

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[56] *Coll. Mass. Hist. Soc.*, ser. 1, vi, 40; vii, 139; *Pa. Arch., 1748-56*, ii, 579; same, ser. 2, vi, 223-224; *Pa. Col. Rec.*, vi, 486.

[57] *Pa. Arch., 1748-56*, ii, 398. Delancey to Morris, Sept. 1, 1755.

[58] "With respect to the wisdom and equity of his administration, he [Shirley] can boast the universal suffrage of a wise, free, jealous, and moral people." *Coll. Mass. Hist. Soc.*, ser. 1, vii, 69.

[59] *History of Massachusetts Bay*, ii, 16.

[60] *Ibid.*, 29.

[61] *Ibid.*, 44, 45. He adds: "The province was never in better credit than at this time. They could have borrowed enough to pay the charges of the past and present year; but this mode of proceeding induced many members to come into the measure. They were made to believe it tended to facilitate the obtaining of a grant from parliament."

[62] *Coll. Mass. Hist. Soc.*, ser. 1, vi, 47.

were veterans of the Louisburg expedition made the governor's task much easier.[63] The appointment of their governor as commander-in-chief which gave the colony a commanding position no doubt contributed to the public spirit of the assembly. An incident occurred in 1755 after the Crown Point expedition which illustrates their jealousy and desire for prestige. Shirley had induced the assembly to acquiesce in his appointment of Colonel Johnson of New York as commanding-general of the expedition by representing that he was the only man that could induce the Indians to join the English. Johnson was successful in an engagement with the French and captured a number of the enemy, including the French general. The Massachusetts assembly was greatly displeased because Johnson reported his success to New York instead of their own government. The assembly ordered the lieutenant-governor to "acquaint general Johnson, that, as the Massachusetts province bore the greatest part of the charge and burden of the expedition, it ought to be considered as principal in all respects; and that all papers and advices of importance ought to be first sent to that province; and that the French general, and other prisoners of note, ought to be sent to Boston."[64]

Besides voting men and money freely, the assembly at different times offered liberal bounties to volunteers and enacted adequate draft laws. No troops could be taken from the province without their own consent unless the removal was sanctioned by the assembly, but such authority was readily given in most cases. After Braddock's defeat they met in extra-legal session[65] and made provision for an additional force of two thousand men. They were not so punctilious in small matters as some of the other assemblies, and on several occasions tacitly allowed the governor and council to perform acts which, constitutionally, the assembly alone had power to do.[66]

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[63] Hutchinson, *History of Massachusetts Bay*, iii, 28.

[64] *Ibid.*, 36.

[65] See *ibid.*, 34, for particulars.

[66] *Ibid.*, 58.

There were of course occasional murmurings concerning the heavy financial burden,[67] and serious trouble with Loudoun over the interpretation of the British quartering act seemed imminent in 1757, but controversies were, as a rule, amicably settled and did not prevent the assembly from doing all that could be reasonably expected of it. On one occasion only was there a threatened deadlock over the control and disbursement of money voted for military purposes. The assembly adopted a practice which prevailed in several of the other colonies of appropiating money to be paid to particular troops for a particular service and forbidding that it be used for any other purpose. Shirley had signed such bills, but Pownall who became governor in 1757 refused his assent to a bill of this kind, declaring it unconstitutional. He held out for several days, but the assembly would not yield the point and he at last signed it under protest.[68]

This episode passed unnoticed in England, and as the assembly had won their point, the military situation was not affected by it. In the early part of 1758 when a call came from Pitt for troops to invade Canada, the assembly responded by a unanimous vote to send seven thousand men to serve with the British regulars. They had high hopes of the success of the expedition and as Pownall wrote, "It was thought proper that this Province should set the example."[69] Pitt's promise of reimbursement no doubt had its influence on the members. Although England did not fully repay Massachusetts for the expense she had incurred during the war, the specie expended in the province and the increase in commerce compensated her, in part at least, for her liberal grants.[70]

Connecticut

In Connecticut, as a result of popular government, liberal

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[67] After the Crown Point expedition they at first declined to vote new supplies, declaring that "securing his majesty's territories is a design which his majesty only is equal to project and execute, *and the nation to support;* and that it cannot reasonably be expected that these infant plantations should engage as principals in the affair." Hutchinson, iii, 38.

[68] Hutchinson, iii, 66-67.

[69] *R. I. Col. Rec.*, vi, 136.

[70] Hutchinson, iii, 79.

powers were given by the assembly to executive officers. For the same reason the assembly coöperated with the governor by voting liberal grants of money and supplies. In 1755, when General Shirley called on Connecticut to furnish a quota of one thousand men for the Crown Point expedition, the assembly voted to comply with the request, although they considered the number relatively larger than the quotas of Massachusetts and New York.[71] They even permitted New York to enlist three hundred men in Connecticut for this expediton.[72] I have found no similar instance in the records of any other colony. The estimated expense to Connecticut of this expedition was reported to the Board of Trade as over £6000 sterling.[73] When the Earl of Loudoun called for troops in 1756 the Connecticut assembly promptly voted the necessary men.[74] A few months later (January, 1757), however, they appointed a committee to confer with the earl at Boston. This committee was given authority to furnish men not to exceed one thousand two hundred and fifty, but the number furnished must be governed by the quotas voted by other New England colonies.[75] While the assembly's fear of doing more than its share is evident in the succeeding years of the war, nevertheless it showed public spirit and loyalty to the cause.[76] The fact that even the most loyal colonies felt it necessary to make such contingent grants only emphasized the necessity of some central authority. Acts were passed for quartering British troops and for protecting them from exorbitant prices.[77] In 1755, 1756, and again in 1758, the assembly

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[71] *Col. Rec. of Conn.*, x, 336.

[72] *Ibid.*, 390.

[73] *Ibid.*, 624.

[74] *Ibid.*, 545, 555.

[75] *Ibid.*, 594-595.

[76] *Ibid.*, 598-599; xi, 93, and many scattered items in vols. x and xi, for example, the following from vol. xi:

March, 1758, £30,000, p. 100.
February, 1759, £20,000, p. 214.
March, 1759, £40,000, p. 235.
May, 1759, £10,000, p. 255.
March, 1760, £70,000, p. 351.
March, 1761, £45,000, p. 482.
March, 1762, £65,000, p. 615.

[77] *Ibid.*, xi, 176, 190, 216, 304.

authorized the impressment of troops to complete the quotas.[78] In October, 1755, the assembly appointed a "Committee of War" and gave it full power to send out any number of troops it thought necessary to defend the frontier towns and neighboring provinces, and to do anything else necessary for defense.[79] In striking contrast to assemblies farther south, they gave the governor ample power in matters of appointments and the disbursement of money.[80] There was consequently little friction in internal affairs.

Rhode Island

Rhode Island, like her sister charter colony, Connecticut, voted men and money quite freely, and for the same reason there was no clash between executive and legislative authority. But here also is found the same determination to do relatively no more than her neighbors. On January 1, 1755, in response to a letter from Sir Thomas Robinson, the assembly promptly voted one hundred men and offered a bounty of £18 for enlistment.[81] They voted a few days later to establish a lottery for the purpose of raising £10,000 toward building Fort George.[82] When, in March, General Shirley requested aid for the Crown Point expedition the assembly immediately voted four hundred men and £60,000 for expenses, but the act was to be effective only on condition that other colonies did their share. A "Committee of War" was appointed to purchase supplies and to look after matters of defense.[83] Despite the opposition of some members who asserted that Rhode Island had done relatively more than other colonies, additional grants of men and money were made for this expedition. Commissioners were chosen to meet those from other colonies, and instead of dictating everything as was customary in royal and proprietary provinces, the

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[78] *Col. Rec. of Conn.*, x, 393, 495; xi, 121.

[79] *Ibid.*, x, 319.

[80] *Ibid.*, 483.

[81] *R. I. Col. Rec.*, v, 404.

[82] *Ibid.*, 505.

[83] *Ibid.*, 418-426.

assembly gave the commissioners full power to assist other colonies during the present and future campaigns.[84] Their zeal brought them hearty commendation from the king.[85] Governor Hopkins informed Partridge, their agent in London, that the Crown Point campaign alone cost Rhode Island £15,000 sterling.[86]

Liberal grants were made in succeeding years. Laws were passed to promote enlistment by giving bounties, to enforce discipline by court-martial, and to prevent desertion.[87] Usually the assembly did not oppose the taking of troops to serve outside of the colony. In one instance they adopted a restrictive measure which called forth a well-merited rebuke from Loudoun, who asserted with good reason that the service of colonial troops on such terms would be more detrimental than beneficial.[88] The rebuke had the desired effect, for a few months later (August, 1757) the assembly voted to send one-sixth of their militia on the Lake George expedition, and the treasurer was authorized to "hire" money for their support.[89] The number of troops who served in the field in most cases fell short of the number voted. Dereliction of officers in charge of the draft, who accepted bribes in lieu of service, nullified the laws in many instances,[90] in spite of the good intentions of the assembly.

On the whole there seems to be little foundation for the charge often made against the two charter colonies by royal officials—that they were less loyal to the interests of the mother

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[84] *R. I. Col. Rec.*, v, 433, 438, 448-449, 464.

[85] *Ibid.*, 467.

[86] *Ibid.*, 509. Memorial of Partridge to Board of Trade, April 2, 1756.

[87] *Ibid.*, 492; vi, 22, 34, 78, 129, and many later items.

[88] "The confining your men to any particular service, appears to me to be a preposterous measure. Our affairs are not in a situation to make it reasonable for any colony to be influenced by its particular interest . . . ." He agrees to treat the soldiers well, "But to engage that I will employ them in this or that particular place only, it is what I cannot do upon any terms; for I think it would be sure to be more prejudicial to the public than the whole benefit which we may expect from the provincial forces would countervail." Loudoun to Governor Hopkins, Jan. 29, 1757. *R. I. Col. Rec.*, vi, 17.

[89] *R. I. Col. Rec.*, vi, 75, 78.

[90] *Ibid.*, 137. Gen. Abercromby to Lieut. Gov. Gardner, March 15, 1758.

country than those colonies which enjoyed less freedom and autonomy. Compared with others, their attitude was loyal and generous.

New Hampshire

Of all New England colonies New Hampshire was most reluctant in voting assistance during the war. While the other New England assemblies responded more or less cheerfully[91] to calls from the commanding general, the assembly of New Hampshire always deliberated long and carefully before acting. Very often the assistance they did vote was too long delayed to be of much service. The disposition of the assembly to haggle over small points is very noticeable, but disputes with the governor never reached the intensity of similar contentions in the middle colonies. The harmony, however, was more apparent than real. When they denied a request of the governor they usually based their refusal on pleas of poverty or on a different interpretation of royal instructions. They did not deny British authority outright. The governor on his part did not resort to abusive language, but confined his arguments to the letter of his instructions, and usually in the end yielded to prevent the entire failure of desired measures. For these reasons an open breach was avoided.

As early as January, 1754, Governor Wentworth called the assembly to account for not including a suspending clause in their laws which would render them inoperative until approved by the king. In this province, he said, no law could become effective until it had been so approved.[92] The assembly ignored the protest, and necessity forced the governor to allow the practice to continue.

The suspending clause was considered a most arbitrary and unreasonable thing by all colonies in which it was required, and it was later included in the Declaration of Independence as one of the charges against the king. Like all veto power it was capable of being abused and no doubt was abused in some

[91] *N. H. Prov. Pap.*, vi, 499. Shirley to Wentworth, March 16, 1756.
[92] *Ibid.*, 232.

cases, but England considered it necessary to have some check on legislation, especially on laws for the extravagant issue of paper money.

When first asked to assist in the common defense the New Hampshire assembly expressed deep concern and loyalty, but pleaded poverty.[93] A little later they voted a small number of troops to serve for a few months in defending their own province. This short term of service and the uncertainty of additional grants made it impossible for the governor to form any definite plans.[94]

Much time was lost in waiting to see what other colonies—especially Massachusetts—were going to contribute. This made the small contributions of the legislative body tardy and less effective. They voted six hundred men in March of 1775, which they claimed was a much greater number than their just quota. They did it on account of critical times and this number was not to be a "Precedent" for future quotas. These troops were for the first Crown Point expedition and were to be "subsisted at the charge of this Province with provisions till they shall arrive at the place of Gen[l] Rendezvous and no longer."[95] The route over which the troops were marched did not suit the assembly so they declined to furnish additional men.[96] Some money, however, was voted later which brought the entire grant for the expedition up to £1,500.[97]

The most animated controversy occured in 1756 over a bill granting £30,000 for the second Crown Point campaign. In this bill the assembly named certain officers, including agents to go to Albany to look after the disbursement of their money. The

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[93] *N. H. Prov. Pap.*, vi, various messages to the governor.

[94] *Ibid.*, 319. "It being uncertain whether the Assembly will pay the Troops for any longer time than their Grants extended to, I think it proper that you give orders for dismissing both the Troops posted on Merrimack and those on Connecticut River, unless they are willing to remain at the mercy of the Assembly, which I cannot advise to." Gov. Wentworth to Col. Blanchard, Nov. 3, 1754.

[95] *Ibid.*, 361.

[96] *Ibid.*, 409.

[97] *Ibid.*, 439-441. Report of Secretary Atkinson.

council approved the bill,[98] but the governor at first refused his assent. Asserting that it was an encroachment upon the "Prerogative of the Crown," the governor asked that the bill be altered, but the assembly denied the charge and refused to amend it.[99] The governor showed them his instructions from England expressly forbidding him to sign such a bill,[100] but in the end he was forced to break his instructions and sign it.[1] Wentworth's position was not an easy one. On this and other occasions he showed a desire to be fair, but his instructions were explicit and he felt bound to obey them. The assembly cared little about the war and had nothing to lose by delay, but the members knew that the governor would be discredited in England if he should fail to secure aid from his province. They saw the advantage of their position and made the most of it. They were not the only assembly that denied the binding force of royal instructions and welcomed an opportunity to nullify them.

III. THE MIDDLE COLONIES

New York

New York was already the scene of discord before war with the French began. Governor Clinton, a firm believer in prerogative, had for some time been urging the home government to curb the independent tendencies of the assembly.

In April, 1751, the Board of Trade made an elaborate report to the Privy Council on conditions in New York and accompanied it with a mass of evidence to prove that the assembly had been disregarding royal instructions and usurping powers that did not belong to them. The principal charges were that the assembly had refused to grant permanent salaries to royal officials, and had taken the control of money disbursements

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[98] *N. H. Prov. Pap.*, vi, 506-508.

[99] *Ibid.*, 509-511.

[100] *Ibid.*, 517. He added, ". . . . if I could dispense with the King's Instructions, the Royal Prerogative the Powers Authorities and Reservations of the Crown, with as much ease as you do in the House, I should find no difficulty to persuade myself to consent to your Bill."

[1] *Ibid.*, 520.

entirely into their own hands. In this report Halifax and his colleagues stated very clearly what they considered the panacea for colonial disorders.

"There is nothing so essencially necessary to the preservation of His Majty's Governt in the American provinces, as the careful and strict maintenance of the just prerogative, which is the only means by which those Colonies can be kept dependent on the mouther Country, or the Governors themselves representing the Crown, maintain any power over their Assemblies, or any agreement with them.

"No Govr departed from the prerogative in one instance, but he raised in the Assembly a confidence to attack it in another, which as constantly brings on contests, which again create animosities, which in the end obstruct all Parts of Governt."[2]

It was certainly true that in New York and other colonies the assemblies had assumed executive powers. It was equally true that they made much of precedent in justifying their conduct. On the other hand, "prerogative" was a most indefinite and mysterious thing, which in the hands of an unscrupulous executive might easily be used to paralyze legitimate legislative functions.

About the same time as the above report the Board of Trade advised that a new governor be appointed and given stricter instructions,[3] but this was not done until two years later. In 1753 Sir Danvers Osborne, brother-in-law of Halifax, was appointed and armed with instructions which were prepared by Halifax, Townshend, and Oswald.[4]

The instructions[5] were prefaced with the assertion that in New York "the peace and tranquility of the said province has been disturbed; order and government subverted; and our royal prerogative and authority trampled upon, and invaded in a most unwarrantable and illegal manner."

After specifying some of the "unwarrantable proceedings" of the assembly, the governor was instructed to re-establish good

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[2] *N. Y. Col. Hist. Docs.*, vi, 614.

[3] Bancroft, *History of the United States*, ed. 22, iv, 5.

[4] *N. Y. Col. Hist. Docs.*, vi, 788-791.

[5] Dated Aug. 13, 1753. Extracts given in *Gentleman's Magazine* for Feb., 1754, xxiv, 65.

order by requiring a permanent salary for crown officials, and also that all money voted should be spent by warrant of the governor approved by the council, and not otherwise. The assembly, however, were to have the privilege of examining the accounts of the money spent.[6]

Osborne found that instructions were more easily issued than enforced. Before he announced the new requirements he was informed by the city council that they would not "brook any infringement of their inestimable liberties, civil or religious." His own council informed him that the assembly would never obey the new instructions. But Osborne did not live to put them to the test. Already melancholy on account of Lady Osborne's death, he hanged himself on the night following this discouraging news from his council.[7]

The government now devolved upon DeLancey, who succeeded in effecting a compromise for the time being. The assembly declared that they would never grant permanent salaries no matter how many times they might be dissolved, but consented to yield some of the executive powers which they had exercised.[8] They sent an address to the king asserting that they had been "most falsely and maliciously represented" by the Board of Trade. As Osborne's instructions had been based on these representations, the Board of Trade submitted another report to the king, April 4, 1754, in which they reiterated the charges. During the previous war, they said, when the governor had been obliged to assent to unjust laws or go without funds, the assembly had "taken to themselves not only the management and disposal of such publick money but have also wrested from your Majesty's Governor the nomination of all officers of Government the custody and direction of the publick military stores, the mustering and direction of troops raised for your

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[6] Bancroft erroneously states that "the Assembly should never be allowed to examine accounts." (iv, 104; also his "Last Revision," ii, 376.)

[7] Bancroft, iv, 104; *N. Y. Col. Hist. Docs.*, vi, 833.

[8] *N. Y. Col. Hist. Docs.*, vi, 820. DeLancey to Board of Trade, Jan. 3, 1754.

Majesty's service, and in short almost every other part of executive Government."[9]

This brief statement, although applied to New York only, covers generally the demands made by nearly every colony which controlled only the legislative branch of government. Whenever the assemblies were asked for money they usually insisted on dictating the manner of its disbursement. They did not ask simply that money voted for a specific purpose should not be used for other things. This would have been legitimate and praiseworthy. They insisted that all money granted should be placed in the hands of a committee appointed by themselves and under their control. Under this arrangement the governor had to apply to the committee for funds to meet the smallest expenditures, and the committee in turn could do nothing without the consent of the assembly. Executive functions of government were made subject to the caprice of the legislative body.

Early in 1754 the New York assembly voted £1,000 to provision two companies which the king had ordered to be sent from New York to Virginia. While technically complying with the king's command, they had drawn the bill in such a way that the council could not concur without violating their instructions. They informed the council that unless the bill should pass without change not "a farthing" would be granted.[10] When Lieutenant-Governor DeLancey reported this matter to the Board of Trade he criticised both houses for their obstinacy, and he blamed the council especially for not yielding on such an important occasion.[11] But this half defense of the assembly signifies little, for DeLancey at this time was trying to win the good will of that body. In this he succeeded, and soon used his influence over the assembly to compel Governor Hardy to sign private money bills in DeLancy's favor by attaching them to bills for

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[9] *N. Y. Col. Hist. Docs.*, vi, 831-832.

[10] *Ibid.*, vi, 834; *Pa. Arch.*, ser. 2, vi, 183.

[11] *N. Y. Col. Hist. Docs.*, vi, 838.

defense.[12] The Board of Trade supported the council in its refusal to disobey instructions. The assembly, not wishing to ignore the king's command entirely, voted £5,000 to aid Virginia, but made it payable to DeLancey, thus depriving the governor of any control over the money.[13] On account of this trouble and consequent delay the New York companies did not reach Virginia until the middle of June. The companies were incomplete, of poor quality, and poorly equipped.[14]

When money was needed there were certain points on which the two houses could not agree. The assembly endeavored to retain absolute control of disbursements. When issuing bills of credit they refused to comply with royal instructions, which required a clause suspending operation of the law until the king's approval could be secured. The instructions limited bills of credit to a term of five years, but the assembly persisted in issuing them for a longer time.

Disputes over these questions occurred in all royal and proprietary colonies. Controversies of this character led the colonists to formulate their political theories, to assert their "rights," and to attempt to find a constitutional basis for those "rights."

In the spring of 1755 the assembly of New York receded from their former position to the extent of permitting the council and the commander-in-chief to act with them in the management and disbursement of money, but they still refused to insert a suspending clause in their bills for issuing paper money.[15] After they had forced the governor to sign a bill without such a clause,

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[12] The assembly passed a bill for raising troops to serve in the Crown Point expedition and for frontier defense. The term of service was limited to forty days. Another bill was passed authorizing the payment to DeLancey of £3,787, 16s. for services, not specified. The governor was told that if he would consent to the latter he might fix the term of service in the former to suit himself. Under the circumstances he signed both bills. *Coll. Mass. Hist. Soc.*, ser. 1, vii, 144-145.

[13] *N. Y. Col. Hist. Docs.*, vi, 90.

[14] *Dinwiddie Papers*, i, 245.

[15] Having secured the passage of a bill for £45,000 with the suspending clause omitted, they then voted 800 men for the war, and, on hearing of Braddock's defeat, 400 more. *N. Y. Col. Hist. Docs.*, vi, 940, 989; *Corresp. of Gov. Sharpe*, i, 170.

they then enacted a militia law which Hardy pronounced to be not only the best but the only effective law of the kind in the colonies at that time.[16] The records of other colonies seem to bear out this statement. Some of them for a long time refused to pass a militia law of any kind.

Governor Hardy soon had reason to see the force of what the Board of Trade had said concerning precedent. Having yielded once in the paper money controversy he was obliged to do so again. In 1756 the assembly voted £40,000 in bills of credit for war purposes. Hardy endeavored to have the bills made payable within five years but was finally obliged to disregard his instructions and sign the bill as it was presented to him.[17]

Having preserved the most vital of their constitutional "rights," the members of the assembly were quite generous with both men and money in succeeding years. In 1759 they raised £150,000 by loan for the king's service and paid it all within a year.[18] The ability of the assembly to repay such a large amount in so short a time indicates that its opposition to the five-year limit on bills of credit was not well grounded, for the opposition had been based on the inability of the colony to cancel its bills within five years.

New Jersey

In New Jersey there was less friction than in any of the other middle colonies. Here we have the very unusual record of two governors—one in the early part and another toward the close of the war—speaking in high terms of the loyalty of their assemblies. Governor Belcher wrote to Richard Partridge, December 20, 1755, that "N. Jersey is well alive & exerts to the Honor & Interest of their King & Country & the whole Legislature (Govr, Council, & Assembly) are in great harmony among themselves." On July 7, 1761, the assembly complimented Governor Boone on his administration and expressed a willingness to vote

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[16] *N. Y. Col. Hist. Docs.*, vii, 3. Hardy to Board of Trade, Jan. 16, 1756.

[17] *Ibid.*, 37.

[18] *Ibid.*, 343, 395, 430.

all necessary funds. On July 28, Boone praised the assembly very highly in a letter to the Board of Trade.[19]

In the summer of 1754, £15,000 was granted by the assembly to finance Colonel Schuyler in his operations in New York, and later five hundred men were raised in New Jersey to go with him to serve under General Shirley in the proposed attack on Niagara.[20]

The records show that New Jersey was far less jealous of her neighbors than most of the other colonies, and the assembly was usually willing to permit the troops to serve wherever the commanding general needed them. The troops sent to Niagara had been originally intended for Crown Point,[21] and there was no objection to having the governor send troops to Pennsylvania at a time when the assembly of that province would do nothing for their own defense.[22] Their only protest was a reasonable one—that troops raised and paid by New Jersey should be employed in her defense unless there should be greater need of them elsewhere.[23] Their attitude was all the more commendable because their own province was almost entirely without means of defense.[24]

Considering the size and resources of the colony, the assembly was generous with money. During one period of less than two years £140,000 in proclamation money was granted for war purposes.[25]

About the only thing that seriously disturbed the harmony in New Jersey was a controversy over the issuing of paper money. In this matter members of the assembly for a time asserted their "rights" as defiantly as the legislators of any other colony. As in other colonies they took advantage of the financial needs of the executive and forced through issues of

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19 *N. J. Arch.*, ser. 1, ix, 287, 299.

20 *N. J. Arch.*, ser. 1, viii, part 2, 11; *Pa. Arch., 1748-56*, ii, 312.

21 *Pa. Arch.*, ser. 2, vi, 245, et seq.

22 *Pa. Arch., 1748-56*, ii, 431.

23 *N. J. Arch.*, ser. 1, viii, part 2, 194.

24 *Ibid.*, Belcher to Board of Trade.

25 *Ibid.*, ix, 167. Governor Bernard to Pitt, March 20, 1759.

paper by joining grants for the war with those for paying old debts. Such a bill was passed in November of 1754. It provided for the emission of £70,000 in bills of credit, only £10,000 of which was for the king's service, the remainder to be used for sinking old bills. This money was made a legal tender although the Board of Trade had opposed such a measure on former occasions. When the Board now refused its assent to the present issue the assembly followed the example set by Pennsylvania and Maryland. It sent a petition to the king asking his permission to emit legal tender paper, and flatly refused to vote any assistance until the king's will should be ascertained.[26] No definite settlement seems to have been reached at this time but apparently the governor yielded to the terms of the assembly, for similar laws were passed from time to time without difficulty until 1757, when the governor again objected to the legal tender clause. Once more the assembly petitioned the king. Its petition was considered by the Board of Trade which reported adversely in November of that year.[27]

In 1758 Bernard, who was then governor, sided with the assembly and asked the Board of Trade for permission to sign bills for issuing legal tender paper. He urged that there was now no legal tender money except British gold and silver, of which there was practically none in the colony. The people, he said, carried on considerable trade with Pennsylvania and New York and it was therefore necessary that the only money they possessed should be made a legal tender. Whether this was sound reasoning or not, the Board of Trade accepted it and recommended that the governor be instructed to sign the bills. Both king and Privy Council acquiesced.[28] The usual good conduct and public spirit of the colony no doubt contributed to this amicable settlement.

Barring this dispute over paper money the assembly manifested a desire to do all that the colony was able to do for the

[26] *N. J. Arch.*, ser. 1, viii, part 2, 36 et seq., 152; *Pa. Arch., 1748-56*, ii, 269.

[27] *N. J. Arch.*, ser. 1, ix, 11-14, 34-38.

[28] *Ibid.*, 131-139, 147-148, 154-158.

common cause. There is little evidence of those belligerent characteristics so common in the neighboring colonies. On most occasions they possessed, as Governor Morris of Pennsylvania said in 1755, "a due regard both to the rights of Governmt and the Libertys of the people.[29]

Pennsylvania

Pennsylvania offers the most interesting field for a study of the contest between the legislative and executive branches of government. This contest was already in progress when hostilities with the French began, and it continued practically unabated throughout the war period.

In crown colonies there were but two opposing interests to harmonize—those of the people, represented by the assembly; and those of the crown, represented by the governor. In a proprietary colony like Pennsylvania still another factor was added to complicate matters, for the interests of the proprietor were usually entirely personal and did not harmonize with the welfare of either of the other parties concerned. The Quaker, also, with his aversion to war and his fearless—often arbitrary—disposition, furnished his own peculiar contribution to the difficult task of those whose duty it was to defend the colonies from the attacks of the enemy.

In no other colony was obstinacy carried to such an extreme on either side; nowhere else was there such open defiance of all authority not derived directly from the people. In their verbal contests with their governors succeeding assemblies of Pennsylvania promulgated, more clearly than the assembly of any other colony, the colonial opinion of their relation to the mother country, and what they considered to be the rights and duties on either side. During this war their criticisms were aimed primarily at the validity of proprietary instructions; but in discussing these the assembly covered generally the entire field of colonial government; the rights, duties, and limitations of

[29] *Pa. Arch., 1748-65*, ii, 501. Morris to Belcher, Nov. 17, 1775.

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crown, Parliament, and colonies. As mentioned elsewhere, nearly every argument used to combat the Stamp Act and those which followed it may be found in these discussions of the Pennsylvania assembly. Franklin was a member of the assembly before his departure for England. He admits being the "penman"[30] of some of the addresses of the assembly and he was usually credited with supplying the arguments on constitutional questions. His hatred of proprietary rule was very pronounced and he was ever ready to use his influence to bring about its overthrow. In the *Historical Review of Pennsylvania,* which was probably inspired by Franklin and certainly endorsed by him, proprietary government is described as one with an "assuming landlord, strongly disposed to convert free tenants into abject vassals, and to reap what he did not sow, countenanced and abetted by a few desperate and designing dependents, on the one side; and on the other, all who have sense enough to know their rights, and spirit enough to defend them, combined as one man against the said landlord, and his encroachments."[31] The assembly denied that the proprietors had the right to obstruct legislation by rigid instructions to the governor. All the "public quarrels," said Franklin, were caused by the Penns, who, "with incredible meanness, instructed their deputies to pass no act for levying the necessary taxes, unless their vast estates were in the same act expressly exonerated; and they had even taken the bonds of these deputies to observe such instructions."[32]

Franklin's hatred for the proprietors is apparent in all his

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[30] *Works,* i, 215. In another place he wrote: "I was put on every committee for answering his (Morris) speeches and messages, and by the committees always desired to make the drafts. Our answers, as well as his messages, were often tart, and sometimes indecently abusive." pp. 179-180.

[31] Franklin, *Works,* iii, 113; i, 180-181.

[32] ". . . . every proprietary governor . . . . has two masters, one who gives him his commission, and one who gives him his pay; that he is on his good behavior to both; that if he does not fulfill with rigor every proprietary command, however injurious to the province or offensive to the assembly, he is recalled; that if he does not gratify the assembly in what they think they have a right to claim, he is certain to live in perpetual broils, though uncertain whether he shall be able to live at all; and that, upon the whole, to be a governor upon such terms is to be the most wretched thing alive." Franklin, *Works,* iii, 187.

writings. He seemed, however, to have some sympathy for their governors whose duty it was, as pointed out by the author of the *Historical Review,* to serve two masters.[33] During the most heated quarrels Franklin kept up a personal friendship with the governors.

It is evident that one at least of the leaders of the opponents of the proprietors was not averse to using money for the purpose of nullifying proprietary instructions when resistance did not have the desired effect. In the *Historical Review* the author[34] pointed to Sir William Keith as one of the best and wisest governors, who, having the same instructions as others, hinted to the assembly that "in case they would pay him well, he would serve them well." Keith was recalled by the proprietors, and the author regretted that the assembly did not "set a lustre on his dismission, by accompanying it with all the *doucers* in the power of the province to have heaped upon him, that other governors might have thought it worth their while to proceed on his plan." He used the example of Keith's administration to show that Pennsylvania "when well governed, is easily governed." *Well governed* in his opinion seems to have meant an all-powerful assembly and a hireling governor. In another place the author frankly stated that "the subjects' money is never so well disposed of as in the maintenance of order and tranquility, and the purchase of good laws; for which felicities Keith's administration was deservedly memorable."[35] It was to a naturally stubborn assembly, led by men who openly advocated buying or crushing any governor who opposed them, that the British government must look for men and supplies to carry on the war.

It was only in times of war and of extraordinary expense

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[33] Franklin, *Works,* 187-193.

[34] This *Review* was published by Franklin (*Works,* i, 215) and it was generally supposed that he wrote it, but he afterwards denied the authorship (*Works,* vii, 208). At any rate, he endorsed it and published it to aid his cause. Fisher says that it was written by Franklin's son. *Colony and Commonwealth,* 216.

[35] Franklin, *Works,* iii, 187-193.

that the question of taxing proprietary estates became an important issue, for ordinary expenses of government were derived from excises and interest on bills of credit loaned out. A land tax was not levied.[36] During the previous war a land tax had become necessary. The assembly insisted on taxing the proprietary estates for public purposes whenever other lands were taxed, but the governor under instructions from the proprietors had refused to pass bills for that purpose. In 1753, the assembly appealed from the governor to the proprietors and were censured by the Penns who asserted that the assembly had raised the claim purely as an election cry to please the people. The Penns maintained that they were "under no greater obligation to contribute to the Public Charges than the Chief Governor of another Colony," and referred to a former opinion of the Board of Trade which sustained them in this contention.[37] But neither the proprietors nor the Board of Trade were able to convince the assembly that the Penns in their capacity of property owners should not contribute to the defense of that property, simply because they happened also to be proprietors of the province. Not being convinced the assembly insisted on taxing proprietary estates whenever other lands were taxed for purposes of defense.

The constitutional controversy in Pennsylvania is more easily understood after a brief examination of the documents on which the claims of the assembly were based.

The author of the *Historical Review* states in his opening chapter that the constitution of Pennsylvania is derived from three sources: "the *birthright* of every British subject," the royal charter granted to Penn, and the charter of privileges granted by Penn to the inhabitants of the colony in 1701.[38] This puts in concise form the oft-repeated declarations of the

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[36] Franklin, *Works*, i, 232.

[37] Thomas and Richard Penn to House of Rep., *Pa. Arch., 1748-56*, ii, 109. In 1750 the Penns told the assembly that they did not "conceive themselves under any obligation to contribute to Indian or any other publick Expenses." *Pa. Col. Rec.*, v, 546.

[38] Franklin, *Works*, iii, 116.

assembly. The last two are more tangible than the first and were used whenever they would answer the purpose, but the first was an important asset to have in reserve and all the more valuable because of its indefinite character. For example, the same author after asserting that the proprietors are bound by the terms of the charter, points out that even the "crown is limited in all its acts and grants by the fundamentals of the constitution and can not . . . . establish any colony upon, or contract it within a narrower scale, than the subject is entitled to by the Great Charter of England."[39] Here again the author simply states a claim often used to good advantage by the assembly. The royal charter and the charter privileges bound the proprietor in matters covered by them and were good as far as they went, but the rights of the subject transcended both, and both were void wherever they abridged the privileges included in the "birthright of Englishmen." The inconsistency of this claim with the opinion held generally in the colonies, that their only connection with England was through the crown, seems never to have dawned upon those who made it.

The parts of the royal charter most frequently called in question were those which related to the enactment of laws and to the royal veto. The charter states in a general way that with the assent of the freemen Penn, his heirs, and their deputies, may enact all necessary laws. The assembly held that the charter thus gave the deputies full power to sign laws regardless of proprietary instructions, and that such instructions were indeed a violation of the charter. It is worthy to note that in many of their discussions they do not regard proprietary instructions in the light of a veto, but represent the proprietor as attempting to legislate by instructions thereby violating the charter.

The provision made in the charter for the royal veto was roundabout and burdensome. It required that a transcript of all laws passed in the province must be sent to England within five years after their passage. If not vetoed by the king or Privy

[39] Franklin, *Works*, iii, 121.

Council within six months after reaching England the laws were to be valid and binding. It will be seen at once that this elastic provision if rigorously enforced might work real hardship in the colony. A law went into effect at once in the colony and if vetoed several years after its passage, making business transacted under it illegal, much damage might result. There is evidence that the Board of Trade sometimes hesitated to recommend a veto provided the colony would agree to refrain from passing such a law in future.

In a law involving the finances of the colony such as an act for the emission of paper money it would seem that a clause suspending its operation until the king's approval could be secured would be preferable to a veto after the money had been put in circulation. But the assembly took a different view of the matter and considered a suspending clause an oppressive requirement. Some historians hold the same view. Fisher in his eulogy on the assembly[40] goes so far as to assert that the incorporation of a suspending clause "would have been surrendering one of the colony's most important rights."

In the charter of liberties granted by Penn in 1701 the assembly found other safeguards of their liberties. This document gave the assembly the privilege of initiating laws which it did not possess under the earlier frames of government, but it also in some respects enlarged the powers of the proprietor. It has been asserted [41] that this charter greatly enlarged Penn's veto powers but aside from giving him greater control over council little change seems to have been made by the document itself. The style of the enacting clause in either case might be interpreted to give Penn the right to veto laws.

The charter of privileges permitted the assembly to "sit upon their own Adjournments." This was a wholesome concession to popular government and in ordinary times seems to

[40] Fisher, *Pennsylvania Colony and Commonwealth*, 148.

[41] *Historical Review of Pennsylvania*, in Franklin, *Works*, iii, 157. The author says: "Instead of having but three voices in seventy-two, he was left single in the executive, and at liberty to restrain the legislative by refusing his assent to their bills whenever he thought fit."

have caused little discord, but in a period of intense feeling like the one under consideration the assembly abused this privilege for the purpose of annoying and defeating the governor. Instances of this will appear in the following pages.

From the beginning of the war the assembly determined to keep control of all funds voted for defense. Early in 1754 they voted £5,000 for war purposes, but instead of putting it at the disposal of the executive they placed it in the hands of five of their own members.[42] In April (1754) the governor called a special session to consider matters of defense as well as the advisability of sending representatives to the Albany convention. Letters on the needs of the colonies from several governors were read and aid was asked for General Shirley in his northern campaigns. On the abstract question of granting a sum of money for the king's service the assembly voted by a small majority (18 to 16) in the affirmative, but when it came to voting any definite sum—from £20,000 down to £5,000—they defeated each proposal by a large majority. The only thing they would consent to do was to grant £500 to be sent as a present to the Indians, after which they adjourned for a month, despite the governor's protest, for the purpose of consulting their constituents.[43]

They met again in May and framed a bill which they knew the governor could not approve, because it embodied the features which were forbidden by his instructions. The bill provided for the emission of £30,000 in bills of credit to be paid within ten years, although the British government had fixed five years as the limit for such bills. The governor asked them to shorten the time to four years but they refused to alter it. In another respect they violated the rules adopted for the colonies. Of the £30,000 only £10,000 was for the king; the remainder was to be used for the redemption of old bills. The governor was obliged to accept the grant with the attached rider or go without the £10,000. In their address to the governor the assembly emphatically asserted that "the Representatives of the

[42] *Pa. Arch., 1748-56*, ii, 114-115. Hamilton to Sharpe, Jan. 7, 1754.

[43] *Ibid.*, 235; *Pa. Col. Rec.*, vii, 25-26.

People have an Undoubted Right to judge and determine not only the Sum to be raised for Use of the Crown, but the Manner of raising it."[44] When the expected veto came they adjourned until August without voting a shilling for the common defense. Before adjourning the question of colonial union was discussed, and the members of the assembly showed the independent spirit of the colony by denying the binding force of any such union.[45] In the August session, after several refusals to grant funds, they drew a bill for granting £3,500 similar to the one that had been vetoed in May.[46] The governor of course was compelled by his instructions to veto this also, and the question of supplies and consideration of the Albany plan of union were postponed to the next session, when the new governor, Morris, would have arrived.

Fisher,[47] who is ever ready to eulogize the assembly, absolves that body from all blame in the extreme position to which they adhered. He makes the unqualified assertion that "It was not the Pennsylvania Assembly that was to blame, but her governor, who by the necessity of a war supply wished to force the colony to yield its rights established by the struggles of over seventy years." He attributes adverse criticism of their conduct to ignorance and superficial investigation on the part of other historians. While the selfishness of the proprietors stands out in bold relief, and the governors in many cases were overzealous in the interests of their masters, he who would prove the assembly faultless and unselfish in all things should not examine too closely the records of their proceedings.

If Governor Morris had hopes of succeeding where Hamilton had failed he was soon to be undeceived. Before he had been in the colony long he had reason to appreciate the feeling of Governor Shirley of Massachusetts who wrote him about this

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[44] *Pa. Col. Rec.*, vi, 39-40.

[45] *Ibid.*, 45.

[46] *Pa. Arch., 1748-56*, ii, 189, 235, 236. This provided for issuing £35,000 in bills of credit—£15,000 for military purposes, and the remainder for cancelling old bills.

[47] Fisher, 147, 148.

time "I have no leaf in my books for managing a Quaker Assembly." The only remedy which Shirley could suggest was union and control "by Act of Parliamt, as soon as possible."[48] Morris told Franklin[49] that he "loved disputing." If this was true his administration must have afforded him real pleasure. When he met the assembly in December he encountered the same difficulties that had marked the administration of Hamilton. He urged the need of money for defense and the assembly sent him a bill for striking £40,000 in bills of credit—half for the king's use to be applied as the governor saw fit, the other half to be controlled by the assembly. All was to be sunk by an excise to run for twelve years, although such issues were limited by an act of Parliament to five years. Alleging this and the omission of a suspending clause as reasons, Morris refused to sign the bill and the assembly refused to vote funds on any other terms. His real reason for vetoing the bill, he told Penn, was that it gave the assembly control of half of the money, but he thought it better to use all possible objections.[50] He finally agreed to sign a bill without a suspending clause if they would reduce the term to five years. While the bill was being passed back and forth many times between governor and assembly—each trying to exhaust the other into compliance—the latter gave an opinion of their rights as Englishmen which could hardly be surpassed during the Revolutionary struggle. They told the governor that in a small matter they might yield, "yet in this Case our all is concerned, and if we should not act becoming the Rights as Englishmen entitle us to, we might appear unworthy the Regard we have already experienced and have good Reason to hope for hereafter from a British Parliament." The people, they said, "are convinced they ought not to be governed by Proprietary Instructions in Opposition to their Charter, which is, in our Opinion, the Foundation and Sanction of our

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[48] *Pa. Arch., 1748-56*, ii, 181.

[49] Franklin, *Works*, i, 179.

[50] Letters to Penn, Robinson, and Sharpe, *Pa. Arch., 1748-56*, ii, 216, 221, 224, 237.

Civil and Religious Liberties; and especially if these Instructions must be secreted from them, and by that Means the whole country left without any known Rule of their Conduct."[51] From an American standpoint this is good constitutional doctrine, but if all of their claims had been conceded it would have to be admitted that the charter had given them virtual independence, which of course was not the case.

Having prepared an appeal to the king, the assembly resolved to borrow £5,000 on their own credit to be spent by themselves for defense. They then adjourned abruptly without the governor's knowledge or consent.[52] Morris despaired of coming to any agreement with men who were willing to let their own province be overrun by the enemy[53] while they indulged in dissertations on the force of royal and proprietary instructions. It is strange, however, that it seems never to have occurred to the governor that those who instructed him might also be somewhat culpable if the enemy were given a free field for operations in order that they might preserve all of their alleged privileges intact and their rent-roll undiminished. He saw only the obstinacy of the colonists, and he hoped that Parliament would unite them and put things on "such a footing as to leave no room for future contests between governors and assemblies." Their inactivity, he said, had already put the home government to "thinking."[54]

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[51] *Pa. Col. Rec.*, vi, 191 et seq., 207, 229.

[52] *Ibid.*, 295. Morris to Dinwiddie.

[53] *Pa. Arch., 1748-56*, ii, 231. Morris to Shirley, Dec. 29, 1754. He wrote to Dinwiddie, Jan. 7, 1755, ". . . . surely there never was a set of people in the world, so stupidly infatuated, or so blind to their country's danger as the Assemblys of these Colonys have been upon the present occasion, but if any of 'em are entitled to stand foremost upon the infatuated List, it is the people of this province, who are rich, flourishing and numerous, and not only decline taking up arms upon this occasion, but even refuse to offer the assistance or supply the articles expected from them by the Crown" . . . . "I have no expectations from a set of men that are, or pretend to be, principal'd against defending themselves or their Country, & who, at such a time as this, chuse to enter into a dispute concerning the force of the King's Instructions, and pursuing measures rather calculated to aggrandize their own power, than to Promote the public service." *Ibid.*, 226, 227.

[54] *Ibid.*, 227. Morris to Dinwiddie.

Morris did not, perhaps, state the entire truth when he informed Sir Thomas Robinson that the assembly had "no other design but to furnish a pretence for not acting as his Majesty's service and the safety of the country required," but it was true as he said in the same letter, that "Royal & Proprietary Instructions were (are) by no means new things in this Government, and if they had been destructive of the Libertys of the people, they might have been complained of in a time of less danger."[55] He had still better ground for asserting that "if a house of Assembly by their own Authority, without the consent or Approbation of a Govr, can borrow and dispose of money as they think proper," they could easily use this method to overthrow their dependence upon the crown.[56] The real truth seems to be that the assembly and their constituents were actuated not so much by a wish to shirk entirely their duty to the king as by the desire to show that proprietary government was detrimental to the interests of both king and subjects. This they hoped to do by maintaining that arbitrary instructions alone prevented them from assisting the king in the defense of his colonial possessions. They denied that the proprietor had authority to issue such instructions, and for that reason the governor was not bound to obey them. Such instructions, they said, were "distructive of their Libertys and infractions of their charter."[57] It is evident also that they hoped by standing firm to force an acknowledgment of new "rights" which they could never hope to secure in times of peace.

Thomas Penn fully sustained the governor as a matter of course and expressed deep disappointment because the people for whom his family had done so much were now trying in every way to injure them.[58] But if Penn deceived himself with respect to the gratitude owed him by the colonists, he could hardly hope

[55] Still it should be remembered that a land tax, including a tax on proprietary estates which caused the present dispute, became an important issue only in times of war or other heavy expense.

[56] *Pa. Arch., 1748-56*, ii, 249-250.

[57] *Ibid.*

[58] *Ibid.*, 252-253.

to deceive others. Whatever the motives were that had caused the founder of the colony to grant quite liberal privileges to the settlers, there is no evidence to indicate that the present proprietors considered the interests of the people farther than their ability to afford an income to themselves.

Penn wrote that "it is not believed here that they ever intended to give a shilling," and that he saw little hope of getting money for defense so long as people who scruple to bear arms were permitted to sit in the assembly.[59]

To induce the assembly to yield, General Braddock sent a special letter for the governor to lay before them. He pointed out that the success of the French was due to the want of a proper union and lack of support in the British colonies; that Pennsylvania was amply able to support a campaign in which she was so directly interested; and that she ought not to take advantage of the common danger for the purpose of making encroachments on the king's prerogative.[60] A similar letter from Lord Halifax was shown them and Morris had hopes that the two would "make a Proper Impression," but so little were they heeded that the assembly refused to vote new supplies except on the same inadmissible terms,[61] and the commissioners in charge of the £5,000 above mentioned refused even to advance a small sum to the governor for the purpose of returning deserters. Their excuse was that their instructions from the assembly did not cover that point.[62] It had at last reached a point where the governor was forced to ask a committee of the assembly for funds to cover the smallest items of expense, and even these humiliating requests were often denied.

The people in general showed the same attitude as the mem-

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[59] *Pa. Arch., 1748-56*, ii, 252, 257.

[60] *Pa. Col. Rec.*, vi, 332.

[61] They granted £25,000 to the king, only £5,000 of which was put at this disposal of Braddock. The remainder was to be used by the assembly as *they* saw fit. When the governor refused to pass the bill the assembly demanded that it be returned to them, but the governor kept it that he might send it to the king for the purpose of exposing the conduct of the assembly. *Pa. Col. Rec.*, vi, 339, 353, 386, 389.

[62] *Pa. Arch., 1748-56*, ii, 271, 272.

bers of the assembly. Their indifference if not hostility to British interests is shown by their refusal to furnish conveyances to British troops, even for pay, and by their trading with the French and Indians in powder and other supplies.[63] Franklin at last secured authority from Braddock to advertise for conveyances and urged the people to respond. He pointed out that in this way they might procure a supply of much needed specie. He warned them also that the king's officers were much exasperated with the colony and would take what they needed if they could not buy or hire it.[64] Fear and the influence of Franklin secured some assistance from both the people and the assembly committee. While they were not so "determined to assist the war," as Fisher[65] represents them to have been, this and their aid in connection with the military road seems to have appeased the wrath of Braddock and elicited his commendation.[66]

In June (1755) the assembly scored a victory by forcing the governor to pass a bill embodying some of the objectionable features. Regardless of previous vetoes they presented a bill for granting £25,000—£15,000 for war purposes, and £10,000 for sinking old bills of credit. They accompanied it with a copy of a similar law which had been approved in England. Yielding to financial pressure the governor signed the bill after a futile attempt to have it amended.[67]

Braddock's defeat in July caused general excitement in the colonies and nearly all of them responded to new requests for supplies with more promptness than usual. On August 1, the Pennsylvania assembly voted £50,000, but knowing the governor's instructions as they did, it is not at all probable that they had any expectation that the grant would be accepted, because of the terms on which it was offered. The amount was to be raised

[63] On May 4, 1755, Braddock ordered Morris to put a stop to this trade. If it were not stopped, he would take in hand himself. *Pa. Arch., 1748-56*, ii, 299.

[64] *Ibid.*, 294.

[65] *Pennsylvania Colony and Commonwealth*, 155.

[66] *Diary of Daniel Fisher*, in *Pa. Mag. of Hist.*, xvii, 272.

[67] *Pa. Col. Rec.*, vi, 437-447.

by a tax on all estates, including those of the proprietors, and the discussion which now arose over this question was one of the most acrimonious of the war period. The addresses of the assembly were written by Franklin, so Governor Morris said, and according to the former's own writings the statement is no doubt true. Franklin covered in considerable detail the rights and duties of the people as well as their relation to both proprietor and king. The discussion is too long and technical to be treated in full, but the main points will be considered.

The governor based his objections to the bill mainly on three grounds. First, his instructions. Second, the proprietors from the very nature of things should not be taxed. Third, former laws had exempted these estates and established a precedent. The assembly refuted these arguments and gave many reasons why the estates should be taxed. The assembly claimed it as a right to have all money bills accepted or rejected as a whole—without amendment. They had waived this right at times, they said, but still possessed it. Whence they acquired the right they do not make clear. It was probably a derivative of the "birthright of Englishmen," for it is not guaranteed by either of the charters on which they based so many of their claims. Proprietary instructions, in their opinion, could be no valid excuse for the governor's refusal to sign such bills. The lieutenant-governor,[68] they said, had been given full power to act by the royal charter, therefore proprietary instructions could not take away this right.[69] They maintained that general proprietary exemptions did not apply in the case of a land tax; the proprietor was taxed as a landholder, not as proprietor or governor. They cited

[68] It should be remembered that the proprietor was also governor. His representative in Pennsylvania although usually called governor was technically only lieutenant-governor.

[69] The charter is so worded, but it is doubtful that it was the intention to make the deputy independent of his chief or to give him power to enact laws in opposition to the wishes of the latter. The charter reads: ". . . . Doe grant free, full and absolute power, . . . to him and his heirs, and his and their Deputies, and Lieutenants, . . . to ordeyne, make, Enact and . . . . to publish any Laws whatsoever, for the raising of money for the publick use of the said province, or for any other End apperteyning either to the publick state, peace, or safety of the said Countrey."

evidence to show that the king himself was subject to a tax on his lands. The proprietor could not claim more than the king. Far from being entitled to exemptions the assembly asserted that the proprietor had no right to the fees and licenses which had been allowed him for the purpose of paying the lieutenant-governor's salary. The founder of the colony had been permitted to collect quit-rents in lieu of a salary as governor. When a lieutenant-governor was found necessary the people permitted fees and licenses to be used for paying his salary, but it had been a free gift—nothing which they had been obliged to pay. They denied all desire to usurp power. They claimed, they said, only the right to dispose of their own money—a right guaranteed in their charter, the *natural right* of freeborn Englishmen, a right never before denied. They pointed out that it was impossible for an annually elected body to usurp power for any special class. They accused the governor of not wishing a reasonable bill.[70] He wanted, in their opinion, to kill the bill and throw the blame on the assembly, and he was glad of an opportunity to "make a fine speech" and, by showing his zeal, to secure a better position. What the governor and proprietor asked, they said, was *worse* than vassalage; vassals fight for their lord while he pays the bills "but our Lord would have us defend his Estate at our own Expense," which is "even more slavish than Slavery itself." The proprietor, they continued, asks them to "encrease and secure his Estate at our own Cost, and give him the glorious Privilege that no British Nobleman enjoys, of having his Lands free from Taxes, and defended gratis."[71] This presentation of their side of the case was about as strong as it could be made.

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[70] Morris questioned the sincerity of the assembly as much as they did his. In a letter to DeLancey he said they did not wish to furnish assistance "and purposely started these disputes to furnish a pretence for their conduct. Had this been before a doubt, their last long message and refusal to establish a Militia would have made it clear." *Pa. Arch., 1748-56*, ii, 369.

[71] *Pa. Col. Rec.*, vi, 510, 525, 526 et seq., 569-585. They told Morris that several inhabitants of Philadelphia had offered to pay the proprietors' share of the £50,000 and rely on him to repay them. This they asserted was another proof of the justice of the tax, and they now hoped that the governor would sign the bill.

It was clear and concise although considerably overdrawn in some respects. A man less given to argument than Morris might have been overwhelmed by such an array of historical and legal data, but he was unconvinced and adhered to his demand for amendments.[72] Refusing to accept his amendments or to pass a militia act the assembly adjourned for a month, leaving the province without funds.

When they met again in September the controversy was renewed. After blaming the assembly for Braddock's defeat, the governor answered in detail the charges made by them during the preceding session. In reply to their statement that they did not enjoy "disputations" his answer was "But let your Minutes be examined for Fifteen years past, not to go higher, and in them will be found more artifice, more time and money spent in frivolous controversies, more unparalleled abuses of your Governors, and more undutifulness to the Crown, than in all the rest of his Majesty's colonies put together."[73] The governor's statement was in the main true, but the inference which he wished to have drawn from it—that the assembly was entirely in the wrong—by no means followed. The proprietors whom he defended were still more selfish and equally as unyielding as the assembly. Excessive stubbornness on either side was responsible for the defenseless condition of the province.[74]

While the quarrel was in progress Morris appealed for aid to both Governor Belcher of New Jersey and General Shirley of Massachusetts, now commander of the king's forces, but both were unable and unwilling to assist a people who refused to defend themselves.[75]

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[72] *Pa. Col. Rec.*, vi, 588.

[73] *Ibid.*, 623.

[74] Whether the proprietors should be taxed or not the governor would no longer dispute, declaring that it was sufficient for him "that they had given him no power in that case." "Those who would give up essential liberty to purchase a little temporary safety," answered the assembly, "deserve neither liberty nor safety." *Historical Review*, in Franklin, *Works*, iii, 422, 429.

[75] *Pa. Arch., 1748-56*, ii, 469, 471, 493 et seq., 502. Shirley a few days later authorized Morris to procure some ammunition and supplies from the king's stores at Cumberland, with the expectation that they would be replaced by the assembly.

Later in the session a compromise was arranged whereby money could be voted while either side maintained practically its original ground. After the news of Braddock's defeat had reached England the Penns, "intimidated," to quote Franklin, by the clamor raised against them "for their meanness and injustice in giving their governor such instructions," agreed to contribute £5000 as a free gift to be used for defense.[76] On receiving this news the assembly voted £55,000[77] in bills of credit without taxing the proprietary estates, "in consideration of their (proprietors) granting Five thousand pounds in lieu thereof." They made these bills payable within four years, thereby conforming to proprietary instructions, but without expressly conceding the point. The money was to be spent by a committee named in the act, but, for the first time, with the governor's approbation. Both sides were influenced apparently by the defeat of Braddock and by the new invasions of their province by the French who had won over tribes of Indians formerly friends of the English.[78]

For the same reasons the assembly at last consented to enact a militia law, which is an interesting example of Quaker political doctrines. Having set forth their conscientious scruples against bearing arms and the guarantees in their charter of privileges against being compelled to do so, they declared that "as the World is now Circumstanc'd" they did not wish to condemn the use of arms by others. The act was drawn by Franklin and simply gave legal sanction to the organization of companies from among those who should desire to enlist.[79] Such a law was little better than none at all, and Morris aptly pronounced it "senseless and impracticable." He believed, he said, that they had framed the bill thus for the purpose of compelling him to veto it, so he disappointed them by signing it.[80]

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[76] *Works*, i, 196.

[77] Morris said £60,000 in a letter to Dinwiddie, Nov. 29.

[78] *Pa. Arch., 1748-56*, ii, 513-531. Various letters of Morris.

[79] *Ibid.*, 516. The act itself.

[80] "They have indeed passed a Militia Bill, but with no other view but that I should refuse it and then to raise a clamour against me on that acc't,

The above mentioned adjustment proved but a temporary lull in the controversy. It was renewed during the summer of 1756 and continued to the end of Morris's administration. Pleading his instructions, Morris refused to sign a bill for levying an excise on rum and other articles. His main objection was that the act did not give him any voice in spending the money to be raised. The assembly sent him resolutions to the effect that his instructions were "an infringement of their (our) Just rights," and that similar laws had been approved by the king, but no settlement could be reached.[81]

Soon after this the new governor, Denny, arrived, bringing with him a medal awarded to Franklin by the Royal Society. He made an effort to win the friendship of Franklin who was leader of the assembly, promising, the latter says, "adequate acknowledgements and recompenses" if the assembly could be induced to drop their opposition. Franklin assured the governor that his circumstances "were such as to make proprietary favors unnecessary" to him, and adds that "the disputes were renewed, and I was as active as ever in the opposition."[82]

The first meeting of the new governor with the assembly opened with more harmony than usual. One of the grievances thus far had been that former governors had refused to show their instructions to the assembly. That body had often expressed doubts that governors were bound by instructions to the extent which they pretended to be. Morris, especially, had been charged with exaggerating his instructions. When the assembly asked to see Denny's instructions on money bills, he complied at once with their request. They were now convinced that there had been no misrepresentation. They assured the governor that if these instructions were followed there could be no supplies voted, and asked if he could not sign a reasonable bill—such as the king had formerly approved—in spite of pro-

but as it is of such a nature as cannot be carried into execution, I have disappointed them, and given my consent to it." Morris to Sharpe, Nov. 26, 1755. *Ibid.*, 520.

[81] *Pa. Col. Rec.*, vii, 181, 185.

[82] *Works*, i, 214, 215.

prietary instructions. Although they were informed by Denny that he must conform to his instructions,[83] his yielding to their request seems to have made a good impression on the assembly. They passed an act for striking £30,000 in bills of credit to be paid by an excise on rum and other spirits, and unlike the similar bill presented to Morris, it was now provided that the governor should have a voice in spending the money.[84]

This harmony was short-lived. Verbal cannonading was renewed in December (1756) over the quartering of British soldiers. Lord Loudoun had demanded winter quarters for his troops and the governor asked the assembly to furnish them. After some delay they passed a bill extending to Pennsylvania the British act for quartering soldiers in public houses. They knew of course that there was not a sufficient number of public houses to accommodate the army, but alleging that they had done all that had been asked or could be expected of them, they refused to do more. So intent were they on proving their contention against the governor that they gave no thought to the comfort of the troops and even refused sick soldiers the use of their new provincial hospital. When at last the governor ordered the sheriffs to find quarters in private houses if necessary, the assembly yielded and provided the necessary quarters.[85]

The loss of this battle apparently made the assembly all the more determined to win the next. Once more did the proprietary estates become the paramount issue. In January, 1757, the assembly voted £100,000 for the king's service to be paid by a tax on all estates, including those of the proprietors. On the refusal of Denny to sign the bill the assembly sent him a vigorous remonstrance demanding that the governor should sign it. The bill, they said, violated neither charter, laws, nor royal

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[83] *Pa. Col. Rec.*, vii, 237-239.

[84] *Ibid.*, viii, 40. "I am glad," said Dinwiddie in a letter to Denny, Nov. 12, "your Assembly voted £30,000 to be dispos'd of by your approbation, which has long been a Bone of Content[n]." *Pa. Arch., 1756-60*, iii, 50.

[85] *Pa. Col Rec.*, vii, 111-112, 364 et seq., 380. "For the first Time since the Charter," wrote the governor, "they sat all Saturday Afternoon and Sunday Morning, and drew up a long abusive Message" on this subject. To the proprietors, April 9, 1757.

instructions. Proprietary instructions, they maintained, were not laws, nor had they any binding force; for the proprietors had no right to obstruct grants to the king. Neither side would yield, and a similar bill failed for the same reason a month later.[86] It may be noted that here again they confuse the veto with *law-making.*

In persistency the governor was quite a match for the assembly, but not so in ingenuity. Taking advantage of the fact that a former and similar bill of theirs had been approved in England because of extreme need, they now made the present grant of £100,000 a supplement to the former act. But the Penns in the meantime had, with the approval of the Board of Trade, issued new orders forbidding the governor's assent to an act like that which the assembly had just supplemented. The assembly refused to make any alterations, and during the discussion which followed they stated their "rights" in no uncertain terms. By the terms of the supplementary bill all money not specifically appropriated was put at the disposal of the assembly. Because it was a money bill they demanded that it must be passed without amendment or alteration,[87] if not, the forces must be disbanded. They denied the governor's authority to prorogue or dissolve them, and claimed the right to adjourn themselves whenever and for so long a time as they pleased, without the governor's consent; and they insisted upon naming disbursing officers in their money bills. "In short," wrote Richards Peters of the council, "the Powers of Government are almost all taken out of the Hands of the Governor, and lodged in the Assembly; and as to what little remains, scarce a Bill comes up without an Attempt to lessen them."[88] As the Penns

[86] *Pa. Col. Rec.*, vii, 395-397, 409, 401-403.

[87] In a letter to the proprietors, April 9, Denny said that when he asked for a new bill, "Instead of Compliance, they thought proper to return to me the Bill with a Remonstrance, demanding it of me as their Right, 'to give my assent to it (and as it was a Money Bill without Alteration or Amendment) as I should answer to the Crown for all the Consequences of any Refusal at my peril.'" *Pa. Arch., 1756-60*, iii, 113.

[88] *Pa. Arch., 1756-60*, iii, 157. Penn wrote to Peters that he had "often been told by the greatest persons that there is no Government in Pennsylvania."

insisted that the governor should not allow "one Shilling" to be paid out without their consent and for purposes approved by them,[89] he was placed in a very difficult position. The charter of privileges gave the assembly, as they claimed, the right to "sit upon their own Adjournments," but if a strict construction of documents was to govern in all cases it would have to be admitted that both the royal charter and the charter of privileges gave the proprietors a coördinate power with them in the making of laws. This they were quite willing to overlook in their argument against proprietary instructions.

Loudoun now wrote to Denny that six months' pay was due the soldiers and that many were disbanding. Others refused to march until paid. He urged either side to yield some points for the present. The assembly made some minor alterations without conceding the main points at issue. Denny at last felt obliged to give way. In a verbal message he informed the assembly that he would sign their bill despite his instructions rather than involve the province in ruin.[90]

Having forced the governor to yield on this bill the assembly passed another more to his satisfaction (March 29, 1757). Military duty was made compulsory for all those not having scruples against bearing arms, except papists who must pay money instead. Control of the troops was put in the hands of the governor.[91]

Controversies in Pennsylvania were not confined to the larger problems of government. Insignificant points sometimes led to extended constitutional discussions in which the governors were quite as sensitive on questions of prerogative as the assemblies were jealous of their "rights." When Governor Denny was negotiating a treaty with the Delaware Indians in the spring of 1757, the Quakers wished to give an additonal string of wampum to the Indians, and asked the governor to send it with those given by the government. This offer he indignantly declined,

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[89] *Pa. Arch., 1756-60*, iii, 157.

[90] *Ibid.*, 99; *Col. Rec.*, vii, 441, 453, 454, 448-449.

[91] *Pa. Arch, 1756-60*, iii, 120 et seq.

denouncing it as an attempt to infringe upon the prerogative of the king, who, through his agents, had the sole right to make treaties. The refusal was answered by a wordy defense of the Quakers by Joseph Galloway, the future loyalist, and by a remonstrance from the commissioners. In these documents it was asserted that most of the discontent on the part of the Indians had been caused by bad faith on the part of the Penns, and that the attempt of the Quakers to regain the good will of the Indians was both constitutional and laudable.[92] Exaggerated assertions were made[93] that the Quakers were inciting the Indians to make unreasonable claims, but the only foundation for this seems to have been the frequently expressed opinion of Quaker members that all disputes with the Indians might be peaceably settled by giving them their rights. The "religious prepossessions" of the Quakers, as Franklin said,[94] were "unchangeable" and "their obstinacy invincible," but there is no evidence of secret machinations on their part.

If the governor guarded jealously the treaty-making power of the king, the members of the assembly were equally alert in defending their "rights" against executive encroachments. At one of the regular conferences of governors called by the British commander in the summer of 1757, Governor Denny had agreed with Lord Loudoun and the southern governors to send two hundred troops from Pennsylvania to assist South Carolina. But they had not reckoned with the assembly, which body in a message (June 17) forcibly denied the governor's right to send troops out of the colony until a law for that purpose had been passed by the assembly.[95] As other assemblies interposed similar objections, executive and military officers were justified in thinking it unreasonable that valuable time must be lost in waiting the

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[92] *Pa. Col. Rec.*, vii, 109, 656, 661; *Pa. Arch., 1756-60*, iii, 214-215.

[93] E. g., *ibid.*, 319.

[94] *Works*, iii, 16.

[95] *Pa. Col. Rec.*, vii, 575. Replying at the same time to a request for money for frontier defense, they informed the governor that money and laws had been supplied in plenty; if the frontiersmen suffered, it was due to the governor's own poor management. 577.

pleasure of several indifferent—often hostile— legislative bodies. Custom and in some cases the charter gave the assemblies the right to decide upon sending troops outside of their respective provinces, but they often carried this privilege to extremes and it was but natural that as soon as peace had been established the British government should turn its attention to a general readjustment of colonial control.

The old militia law had expired and an attempt to renew it in the summer of 1757 added another item to the controversy. Three bills which were sent to the governor were vetoed in succession on the ground that they were not "equitable and constitutional," but the main objection was that any one who wished to avoid military duty might plead a Quaker conscience and remain at home. All suggested amendments for the purpose of remedying this defect were termed religious tests worthy only of the days of the Inquisition,[96] but the assembly did not attempt to explain how officers were to distinguish Quakers from others without some kind of examination. They withheld from the governor the privilege of appointing officers except from a list of persons nominated by themselves,[97] but even this was more liberal than their former practice of naming officers in their bills.

A charge made by the assembly that the governor was partial to the lower counties (Delaware) brought a seathing denunciation of their conduct from the assembly of those counties. Our independence of the province of Pennsylvania, they said, we "esteem no small part of our Happiness." They resented any dictation from the province concerning the amount of money to be raised in the counties for defense. Usually the assembly of these counties maintained friendly relations with the governor, but in 1759 they adopted the tactics of their neighbors whom they

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[96] "What the Governor means by an equitable and constitutional Militia Law we readily perceive by his amendments; a Law that will oblige the Inhabitants to take a Test as to their religious and Conscientious Scruples; if this be equitable and constitutional, it is the Equity and Constitution of Portugal or some other Popish countries where the inquisition is in use, and not any free Government, where the People enjoy their religious Liberties." *Pa. Col. Rec.*, vii, 744.

[97] *Pa. Col. Rec.*, vii, 744-745.

had criticized and forced him to sign bills which gave them full control of disbursements.[98]

In the spring of 1758 a controversy arose which continued during the rest of the war. The points at issue included the taxing of proprietary estates, the right of appointment to office, and the control of money voted for defense. At first the assembly's professions of loyalty to the king were profuse and their grants of money liberal. But knowing as that body did that the governor had been forbidden to sign such bills as they now offered him, it seems evident that their main purpose was to break the power of the proprietors either by forcing them to accept the terms of the assembly or by showing the British government that the Penns alone prevented the colony's loyal support of the crown. This they failed to accomplish, but the controversy is of interest because of the rather full discussion of many phases of constitutional authority.

In March, 1758, the assembly "earnestly solicitous that this Province may be distinguished among the Colonies for Loyalty, Ardour, and Zeal in defense of America," passed an act raising 2700 men to be united with troops from Virginia and Maryland under the command of General Abercrombie. They recommended a bounty of £5 for each volunteer. They granted to the king £100,000 in bills of credit to be paid by a tax on real and personal property—including the proprietary estates. The bill named as commissioners to spend this money some of their own members who had quarreled with the governor. The governor's approval of disbursements was not required. Governor Denny of course opposed the bill but offered to sign a separate bill for taxing proprietary estates, provided the owners were given some voice in the choice of assessors. As the people chose assessors to fix the tax on their property he urged that the Penns were entitled to a similar privilege. The assembly for a time refused to make any alterations, but they freely gave the governor their views on the constitutional points involved. His demand, they

[98] *Pa. Arch., 1756-60*, iii, 630, 634.

said, was "inconsistent with the Rights of the people" and only a scheme to exempt the proprietors from their proper share of the expenses. The House of Lords had never claimed the right to appoint commissioners to deal with financial matters; this was left wholly to the Commons. Money voted was a "free gift of the People of this Province to the Crown," and they denied the governor's right to obstruct such gifts, for the purpose of benefiting the proprietors. It is doubtless true that the offer was not made in good faith, but as the assembly would not discriminate between productive and unproductive estates, there was some justice in what the governor asked. The assembly agreed at last to exempt the estates altogether in the present bill—without conceding the right to impose such a tax—but they insisted that the money must be controlled by the commissioners appointed by the assembly from their own members. To give the governor the privilege of rejecting members selected to serve on the commission as he suggested was, in their opinion, equivalent to appointing them, for he could reject members until he had a majority in his favor.[99] Denny signed the bill in this form, but under protest.

The assembly replied to the governor's protest by denouncing severely both himself and the proprietors. The latter, they said, claimed greater powers and exemptions than either peers or royalty in England; the former had "usurped an arbitrary Power of amending Money Bills, and thereby repeatedly violated one of the most essential Rights of the People." He had prevented them from giving assistance to the crown. He had made no use of the men and money already voted, but had allowed the inhabitants to be butchered and permitted the enemies to go unpunished. They accused the governor and proprietors of being alone responsible for the weak condition of the colony.[100]

Whatever truth there may have been in these charges, their

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[99] *Pa. Col. Rec.*, viii, 53, 63, 64, 67-69, 82, 83.

[100] *Ibid.*, 102-110. They told Denny that he had a greater eagerness for "fingering" the public money than they, and besides he is only a "Passenger, and regards not whether the Barque entrusted to his Care shall sink or Swim, provided he can by any means reach the shore."

own acts were not conducive to effective military operations. Holding rigidly to a "strict construction" policy in interpreting orders from the home government, they refused to supply General Forbes with tents, arms, and other camp necessaries on the ground that "the whole that the King expected or required from them (us), was the levying, cloathing and paying of the men." This they would do, but nothing more.[1] In December they again refused to vote aid to Forbes because it was a bad time of year. Nothing had been accomplished, they said, with the money previously voted, and besides they would be expected to contribute to the general fund, therefore, they would do nothing at present.[2] It matters little which party was most to blame in these contentions. It is of greater significance that either assembly or proprietor possessed, under such a system of government, the power to impede military operations and make imperial government both impotent and farcical.

In the fall of 1758 Franklin, who was then the assembly's agent in London, presented to the British officials a document called "Heads of Complaints." Its general purpose was to show that the Penns, by their arbitrary instructions to the governor, were preventing Pennsylvania from contributing toward the defense of the king's domains. These complaints were answered by F. J. Paris, agent for the Penns, who contended that only unreasonable bills had been vetoed. But the Penns evidently feared that the complaints might have some effect upon the attitude of the government, for they now declared their willingness to contribute whatever amount was found to be their proper proportion. It was their opinion, however, that they had already contributed more than their share.[3] Before the Privy Council gave an opinion on this matter other disputes had arisen.

In December Pitt again asked aid from Pennsylvania and the southern colonies, and assured them that the king would recommend reimbursement by Parliament. The Pennsylvania assembly

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[1] *Pa. Col. Rec.*, viii, 112. Assembly to Governor Denny, May 3, 1758.
[2] *Ibid.*, 229.
[3] *Ibid.*, 279-281.

considered the matter until March (1759) and then replied that nothing would be granted until their grievances had been redressed. These grievances were illegal quartering of soldiers and taking of wagons by the troops without settling for them.

After the death of General Forbes the assembly refused to vote supplies until his successor should be ascertained. They had heard, they said, that the command was to be given to Colonel Byrd of Virginia, and if that were true, it would be useless to vote supplies, for no one would serve under him.[4] General Stanwix was appointed to the command, and whether his appointment satisfied the assembly or not, they and the people refused to give him any assistance. Stanwix informed Governor Denny that the people would not sell him conveyances for ready cash. The assembly was urged to authorize the impressment of conveyances, but that body simply replied that had the late General Forbes paid for what he had taken the people would now readily respond. Further legislation would be of no avail, for Stanwix himself paid little attention to laws or the people's rights.[5] Repeated appeals led only to repeated refusals.

The last controversy during Denny's administration resulted in a victory for the assembly. In June of 1759 they passed a bill granting a loan of £50,000 to Colonel Hunter of the king's army and authorizing the reissue of old bills. It also made quit-rents payable in currency. The last item was opposed by Richard Peters, secretary for the Penns and member of the council, who contended that this was a breach of contract. Both governor and council opposed the bill because it covered several distinct subjects, but the assembly would not alter it. The governor told the council that as he must accept this bill or nothing he intended to sign it. The council advised him not to yield, but Denny after accusing that body of having more solicitude for the interests of the proprietors than those of the king, signed the bill regardless of instructions.[6] This independent action of the governor was

[4] *Pa. Col. Rec.*, viii, 282, 297.

[5] *Ibid.*, 298, 344, 373-374.

[6] *Ibid.*, 342, 343, 350, 357, 358, 360.

probably due to the fact that he was soon to retire from office. It is evident also that he had become tired of the thankless task of defending the Penns in the extreme position which they had taken.

In July, 1759, Denny was succeeded by Hamilton who had been governor at the beginning of the war. According to a statement of Governor Sharpe of Maryland, Hamilton made it a condition of his acceptance that the proprietors permit him to use his own judgment in the matter of signing bills.[7] He found it necessary to make use of this privilege. No serious differences arose until the following March, when the assembly voted $100,000 in bills of credit, part of which was to be paid by a tax on proprietary estates. Hamilton seemed sincerely to desire a reasonable settlement of the tax question. He proposed several amendments which seem fair enough to both of the contending parties. He no longer asked that the proprietary estates be exempt from taxation, but that they should be rated no higher than other lands. He asked also that commissioners be appointed in each county to whom the proprietary agents might appeal if they considered the tax levied by the assessors unjust. Evidence submitted to the governor by Penn's secretary and receiver-general seems to show clearly that the assessors had either carelessly or purposely discriminated against the proprietors. Besides the changes just mentioned and a few other minor alterations Hamilton asked that disbursements be made with his approbation.

The assembly declined to accept any of the proposed amendments, and although Hamilton thought that the bill had been so framed for the purpose of compelling his veto and discrediting the proprietors in England, he signed it rather than hamper military operations by losing the money.[8]

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[7] To William Sharpe, July 8, 1760. *Corresp. of Gov. Sharpe*, ii, 439. Sharpe thought that the Penns "richly deserved" criticism, for they made it impossible for any governor to deal harmoniously with the people. "The Proprietaries & their Govern^t are become odious to the People & I believe some of the Dirt which has been thrown on them during the Contention will stick as long as their Names are had in remembrance."

[8] *Pa. Col. Rec.*, viii, 460-482; *Pa. Arch., 1756-60*, iii, 715.

So far the British government had taken no direct part in deciding the main questions at issue, but in June of 1760 a committee of the Privy Council took under consideration a bill which had been passed in Pennsylvania for reëmitting old bills of credit and taxing proprietary estates. This committee held that it was unfair to tax any proprietary estates which did not produce an income, or to tax any of them without giving the proprietors some voice in the selection of assessors. It was equally unfair, in their opinion, for the assembly to claim the exclusive right to spend the money voted. As to the appointment of officers created by their acts, the committee held that this was more than the House of Commons had ever claimed, for appointment is an executive power. It was also unjust, they said, to pay the proprietors in depreciated currency when sterling was caller for in the contracts; and the bills of credit were issued for too long a term. The committee's recommendation was that the king should veto the reëmitting acts, and the law taxing proprietary estates also unless it should be modified. The modifications required were to tax the estates the same as other lands, and to allow the governor the approval of all disbursements of money. The agents of the assembly, Franklin and Charles, agreed to these changes, but when the matter came before the assembly they flatly refused to carry out the agreement, giving as excuse that they had violated no law.[9]

From the reception of the king's veto until the end of the war the assembly did practically nothing to assist in military operations. They either refused to take any action whatever or else defied the royal veto by including in their bills measures which had been disapproved in England. Hamilton was of course bound by the decisions of the Privy Council and unable to sign bills which violated them.

In September, 1760, the governor urged the assembly to pass a bill for reënlisting troops to defend posts on Lake Erie and the Ohio, but after considering the matter for three days they

[9] *Pa. Col. Rec.*, viii, 524-557, 584; ix, 20.

decided to leave it to the next assembly.[10] They refused to respond to Pitt's call for troops in December because the king had annulled one of their laws and required amendment to another. It would be sacrificing their rights, they said, to pass laws of the kind desired.[11] In April, 1761, they voted £30,000, but included in the bill those points which had already been vetoed by the king. Hamilton tried to induce them to conform to the veto, but they would make no alterations.[12] In March, 1762, they granted £70,000 on the same old conditions and again the governor was obliged to veto. The assembly flatly refused to consider any amendments proposed and the matter had to be dropped.[13]

Nothing further was asked of the colony for hostilities were soon over. The king, however, was greatly incensed because of the perverse conduct of the assembly. After the preliminary peace was made with France and Spain, the Earl of Egremont sent a letter to Hamilton (November 27, 1762) in which he stated that although the war had ended and further aid would be unnecessary, the king wished to express his displeasure with the assembly for their disregard of his veto. Their manner of framing bills on impossible terms, he said, was considered equivalent to refusing aid altogether.[14]

Maryland

In Maryland the conditions were much like those in Pennsylvania. Here as in the latter colony three parties figured in the controversy—the assembly which represented the people, the proprietor with his own special interests, and the home government which considered only the interests of the empire as a whole. Not only were the conditions similar to those in Pennsylvania but the assembly of Maryland watched closely the acts

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[10] *Pa. Col. Rec.*, viii, 495-496.

[11] *Ibid.*, 588, 596 et seq.

[12] *Ibid.*, 605 et seq.

[13] *Ibid.*, 693 et seq.

[14] *Ibid.*, ix, 15, 16.

of the Pennsylvania assembly and adopted its ideas and measures of resistance to executive authority.

The governor, whose duty it was to secure legislation satisfactory to each of the opposing parties, had a very difficult task to perform. The king's secretary of state would send orders to the governor for men and money. The governor's power to approve laws was limited by proprietary instructions. The assembly in turn demanded the passage of laws which were contrary to those instructions, otherwise they would not vote the assistance desired by the king. As in Pennsylvania, both proprietor and assembly preferred as a rule to let the colony go defenseless rather than yield in matters under discussion. While the desire to overthrow proprietary government is not so patent here as in Pennsylvania, it appears at times, and there is little doubt that bills were often presented to the governor with the hope that their expected veto would discredit the proprietor in England. An old law passed in 1649 and approved by Cecil Calvert gave the assembly a means of hampering general military operations whenever they saw fit to use it. By this law the proprietor and his heirs could not, without the consent of the assembly, require the freemen "to Aid or Assist with their Persons or Estates" in a war outside the colony.[15]

When Governor Dinwiddie of Virginia was planning the Ohio expediton in the spring of 1754 the Maryland assembly at first refused to vote assistance. They granted £3000 to be used at the Albany convention for presents to the Indians, but as the amount was to be taken from the income from fines and licenses claimed by the proprietor, the bill was vetoed by the governor. Later in the summer after Washington's defeat the assembly voted £6000 toward assisting the Virginians against the French, but as they would vote nothing to pay for conveyances, the people refused to furnish them. Both horses and wagons had to be pressed into service. This fell unequally on the inhabitants and caused much bitterness.[16]

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[15] *Corresp. of Gov. Sharpe*, ii, 475.

[16] *Ibid.*, i, 56, 68, 71, 88, 211.

Governor Sharpe of Maryland was appointed commander-in-chief of the forces in the southern colonies and at the end of the year 1754 he had but a single company which had been raised in his own province.[17] Sharpe wrote to Sir Thomas Robinson (January 12, 1755) that his assembly would vote nothing because of the example and influence of Pennsylvania. About a month later they voted £10,000 for the king's service, but as it was to be taken from the income from fines and licenses, the bill was rejected by the council, who claimed that by the charter this belonged to the proprietor.[18] This income from fines and licenses was the chief bone of contention in Maryland—the obstacle which most frequently delayed or prevented the passage of money bills. It was a disputed question whether this income rightfully belonged to the government of the colony or to the proprietor. The governor himself had no certain knowledge on this point. In the summer of 1755, while he was contemplating the veto of a bill just passed by the assembly granting £5000, he wrote to his brother John[19] asking the latter's authority for deciding that this money belonged to the proprietor. In his letter Sharpe gave a history of the disposal of this money in the past which seems to show that the assembly was right in its claim that this income belonged to the colony. Originally, he said, the income from fines and licenses belonged to the proprietor, but had been taken from him by William III. On several occasions it had been restored to the Baltimores by temporary laws, but at other times it had been appropriated by the government of the colony. The last law on the subject was passed in 1746 when the government had appropriated this money for an intended expedition against Canada. This law was still (1755) in force.[20] But the bill just enacted by the assembly never reached the governor, for the council rejected it

[17] *Pa. Arch., 1748-56*, ii, 215. Shirley to Morris, Dec. 17, 1754.

[18] *Corresp. of Gov. Sharpe*, i, 165, 172, 360-362.

[19] John Sharpe was a member of Parliament. His advice was sought frequently by Secretary Calvert.

[20] *Corresp. of Gov. Sharpe*, i, 235.

on account of the provision concerning licenses. Being unable to agree on a law members from both houses and other individuals subscribed money, just before Braddock's defeat, to support a company of volunteer rangers.[21] Members of the assembly declared that nothing would ever induce them to give up the income from fines and licenses, and those of the council were equally unyielding. Had Baltimore been as determined as the Penns to sacrifice the public good for his own private interests no bills could have passed, but after Braddock's defeat he gave up all claim to both fines and licenses, and by special instructions ordered the governor to sign bills in which they were appropriated to the common cause.[22]

Military duty afforded another element of discord. When the war broke out there was no adequate militia law in Maryland and the assembly persistently refused to enact one. Without such a law the governor was unable to carry out the orders of the British secretary of state or those of the British generals in America. Unless in very urgent cases, the inhabitants could hardly be expected to neglect their business affairs and leave their families exposed to attack, without some guarantee of compensation. The few who did enlist were sadly neglected. Sharpe estimated that the militia numbered from 16,000 to 20,000 men, but there was no law which compelled them to serve in the army or authorized discipline for those who did enlist.[23] One-third of the number were without arms of any kind and the remainder had very poor ones. The officers who recruited troops for the British regiments had to resort principally to indentured servants,[24] but this led to opposition and riots on the part of the planters. None of these conditions would the assembly even attempt to remedy. Sharpe attributed their attitude largely to the influence of Pennsylvania, but it is evident that they needed

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[21] *Corresp. of Gov. Sharpe*, i, 363, 368. Copy of report to Board of Trade.

[22] *Ibid.*, i, 368.

[23] *Ibid.*, 353. Civil officers, tradesmen, convicts, and Catholics were exempt from military duty.

[24] *Ibid.*, 211.

little tutoring when it was a question of opposing authority.[25] One of the leading members suggested that the people be recommended to provide themselves with arms and to learn to use them, "but that every Step farther than that would abridge the Liberty to which as Englishmen they have an inviolable Right."[26] If this were a true interpretation of English rights, Great Britain would soon lose her place among the powerful nations of the world.

Even if their "rights as Englishmen" could not be harmonized with a compulsory militia law, it is difficult to understand why those rights should prevent the assembly from accepting the assistance of several tribes of Indians who offered aid if the colony would supply them with provisions. But they were so "excessively parcimoneous" according to Sharpe, that they would allow provisions for none except those on the roll of the colony, which were very few. The governor was not permitted even to entertain Indians as guests at public expense, although much depended on their friendship.[27]

The laws already in force empowered the governor to compel every individual[28] of military age to march to any part of the province where his services were needed, but the assembly declared by resolution in 1758 that this applied only to cases of actual invasion by the enemy.[29] Such an interpretation of the law made any precautionary measures depend entirely on the will of the assembly, which was not always in session.

After Baltimore gave up his claim to the income from fines and licenses, the assembly framed their money bills in such a way that he would have to yield in still another matter or be placed in the undesirable position of obstructing grants to the king. Again influenced, as Sharpe thought, by Pennsylvania, they passed a bill in the spring of 1756 granting £40,000 for

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[25] *Corresp. of Gov. Sharpe*, i, 219, 222, 257, 353; *Pa. Arch., 1748-56*, ii, 397.

[26] *Corresp. of Gov. Sharpe*, i, 491. Sharpe to Calvert, Oct. 5, 1756.

[27] *Ibid.*, 549. Sharpe to Dinwiddie, May 5, 1757.

[28] Except certain exempted classes.

[29] *Corresp. of Gov. Sharpe*, ii, 255.

the king's service. Of this amount £25,000 was to be used for an expedition against the enemy, but they took the precaution to provide that it could not be so used unless Virginia and Pennsylvania would assist. One of the means provided for raising this amount was a tax on lands, including those of Lord Baltimore. With respect to the land tax Baltimore was quite as selfish as the Penns and had ordered the governor not to pass any law which did not exempt his lands, but the assembly was determined that they should be taxed. By adopting a conservative course Sharpe avoided a prolonged controversy like that in Pennsylvania. He was not entirely in sympathy with the claims of the assembly and considered them "too opinionated" and "parsimoneous" to provide sufficient money for defense unless they could "subvert in a great measure the Constitution & render it more similar to that of Pennsilvania," but he did not, he told his brother, feel called upon to follow the example of Governor Morris and uphold unreasonable proprietary instructions at the expense of the welfare of the province. As the upper house also took this view of the matter the bill was passed in spite of instructions to the contrary.[30] Having settled this matter amicably the assembly a little later voted £3000 to be used in raising men for the Royal American regiment, and £2000 toward furnishing the New York army with transports and wheat. But they refused to send men to New York and likewise to grant Secretary Robinson's request for a compensation to masters whose servants had been enlisted by the recruiting officers.[31]

Besides being very economical in voting money for defense the assembly unreasonably demanded exclusive control of the movement of troops. Regardless of the fact that efficient military service requires executive control, and in spite of law and custom in their own colony, they insisted on dictating the time and place in which the troops should be used and under whom they should serve.

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[30] *Corresp. of Gov. Sharpe*. i, 346, 391, 395, 399, 400, 403-404, 415, 424, 425, 435; *Pa. Arch., 1748-56*, ii, 685.

[31] *Corresp. of Gov. Sharpe*, i, 494.

When the Earl of Loudoun was sent to command the British forces in America the colonies as usual were asked to assist him. The Maryland assembly voted to contribute a small sum which was then in the treasury, but no more. They inserted a clause directing how and where Maryland troops must be employed. They were not to serve under Loudoun either within the province or outside its borders. Within the province Loudoun must not have even indirect control over the men. Colonel Stanwix, but no one else, might take the troops out of the colony. This conflicted with the plans of Loudoun who had ordered the Maryland troops to garrison Fort Cumberland, and it is difficult to see why he was not justified in pronouncing the act "inconsistent in itself, and a direct infringement of the King's undoubted prerogative . . . . of commanding all Troops in his Dominions"; but the governor decided to accept these terms rather than lose the appropriation. Governor Dinwiddie of Virginia commended Sharpe for accepting the grant even on these terms, but added that the "ill-natur'd Opposition" and "unmannerly" conduct of the lower house in Maryland had caused him much trouble with his own assembly.[32]

In the fall of 1757 when Loudoun again asked Maryland to furnish provisions for troops at Fort Cumberland the assembly declared by resolution that they would never vote a thing for them as long as they remained at that post.[33] They formally condemned the disposition which Loudoun had made of the troops during the preceding summer and announced that they were about to reduce the entire force of the colony to three hundred rangers who were to protect the frontier settlements. Before this they had taken into their own hands practically everything connected with the army. A committee appointed by the assembly had entire charge of feeding and clothing the men. The governor was given no voice in this or in the dis-

[32] *Corresp. of Gov. Sharpe*, ii, 3, 24.

[33] *Ibid.*, 91, 123, 126. A small number of Maryland troops had already been taken there, but it was a disputed point whether this fort was situated in Maryland. The lower house wanted to give up this post and the surrounding territory.

bursement of other public money.[34] Such acts were more than mere precautionary measures. Such a policy was an unreasonable and unnecessary impediment to any general campaign.

A law of the province provided that whenever the militia should be called out to defend the province the expense should be paid by a poll-tax. Instead of employing this customary tax to support the three hundred rangers, the assembly proposed a tax on real and personal property, offices, professions, proprietary quit-rents and ecclesiastical preferments. Assessors were to be appointed by special commissioners chosen by the people, and these commissioners were to have absolute control of the troops.[35] The governor and council would not approve the bill on these terms, and the former wrote Baltimore that nothing could be expected from the colonies until they were compelled by Parliament to furnish their respective quotas.[36] Again he attributed the conduct of the assembly and their influence over the people to the teachings of the *Pennsylvania Gazette*. From that source they had derived the doctrine that "the Upper House is no Part of our Constitution," and it "is from that Quarter that all our Fine Schemes are imported."[37]

In order to get around the law which gave the governor control of the militia the assembly resorted to an interesting example of strict construction. Sharpe had planned to garrison Fort Frederick with militia, but the assembly presented a remonstrance denying his authority to do so. The militia, they argued, were not obliged to march under the governor's orders except in cases of *actual* invasion. Besides, they could not be compelled to garrison forts or to serve in arms at all unless there were "an Apparent Enemy within the Limits of the Province." The ravages which had been committed on the frontiers were not "Invasions," but "only Incursions." They agreed to furnish Loudoun with two hundred men *provided he would not take*

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[34] *Corresp. of Gov. Sharpe*, ii, 31, 51.

[35] *Ibid.*, 100-101.

[36] *Ibid.*, 111-112.

[37] *Ibid.*, 120. To Calvert, Dec. 27, 1757.

them out of Maryland, but they immediately reconsidered this generous offer and withdrew it.[38]

Soon after this the assembly granted £45,000 for military purposes but on terms which the council pronounced unconstitutional. A conference was arranged by the governor, but as the representatives of the lower house were instructed to concede nothing, the conference ended in failure and the assembly was prorogued without granting anything for defense. Nothing could be obtained without absolute submission to the will of the lower house, or, to quote Sharpe himself, there was no course left for the governor and council but to consider how they might "yield most decently to every demand that the Lower House of Assembly shall think proper to make."[39]

There is apparently much truth in Sharpe's claim that the attitude of the lower house was influenced in a large measure by a desire to discredit proprietary government in the eyes of the king.[40] But unlike the governors of Pennsylvania Sharpe did not throw the entire blame on the assembly. Toward the end of the war he wrote his brother that their obstinacy was due in great measure to the unreasonable claims of the proprietor. Baltimore for a time demanded the income from fines and licenses which did not belong to him, and because of this, said Sharpe, the assembly determined to strip him of as much power as possible. Both Sharpe and his brother considered it the duty of British generals—not of the assembly—to supply money for the commissary department.[41]

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[38] *Corresp. of Gov. Sharpe,* ii, 141-142. Sharpe to Loudoun, March 2, 1758.

[39] *Ibid.,* 146, 181, 186.

[40] "The Truth is that their leading Men (. . . .) are anxious to bring every thing into Confusion in hopes that the Crown will then think it necessary to interfere in some manner or other that might be disagreeable to his Lordship." "Were they to refuse to grant any money for His Majesty's Service their Constituents would unanimously condemn their Conduct, but while they can save Appearances so far as to appear fond of granting Supplies the People will be imposed on & made to believe that the Upper House & the Governor are alone to blame, & it is entirely owing to the Government of Maryland & Pensa being in the hands of Proprietors that Money for His Majesty's Service is not so readily granted in these Provinces as in the other Colonies." Sharpe to Calvert, May 14, 1756, *ibid.,* ii, 179.

[41] *Ibid.,* ii, 439-441. Sharpe to William Sharpe, July 8, 1760.

In order to overcome opposition to the proprietor in the two houses of assembly Secretary Calvert[42] was ready to employ measures which were not unlike those of the modern political boss. His scheme was carefully to select members for the upper house, and to bribe those of the lower house with appointive offices. In a letter to Sharpe, March 17, 1760, Calvert outlined a plan to be followed by the governor. When choosing members of the upper house he advised the governor not to "admit a fool who will not only be troublesome & Impertinent but will Blabb every thing he knows." Neither should he appoint a man of ability who was not known to be favorable to the proprietor—for in that case, the more able the man the more dangerous he would be in the council.

Having provided for the council, Calvert proceeded to show Sharpe how the lower house might easily be made subservient. In nineteen out of twenty cases, he said, members oppose measures from private interest, "therefore by throwing out a Sop in a proper manner to these Noisy animals it will render them not only silent, but tame enough to bear stroking & tractable enough to follow any directions that may be thought fit to be given to them." This "Sop" he explained in detail, but in substance the plan was that members of the lower house were to be given to understand that if they did as Calvert desired while members, they need not fear the people, for all members who should fail to be reëlected because of loyalty to the proprietor would be rewarded with other offices. Among these were the offices of sheriff, farmer of the quit-rents, etc. If members did not wish these offices for themselves, their brothers or sons would receive the commissions. Calvert had calculated to a nicety just the number of members it would be necessary to "Bait" in this way.[43]

Whether Lord Baltimore was cognizant of this plan to cor-

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[42] Cecil Calvert, uncle and secretary of the proprietor.

[43] There are 58 members, he said, but usually not all attend. "Now the business is to find Baits for 30 of these: which is a clear Majority, supposing they were all to attend." Calvert to Sharpe, March 17, 1760. *Corresp. of Gov. Sharpe*, ii, 376-379.

rupt the assembly does not appear in the records. It was never put to a test, for Calvert's suggestions were not followed. Sharpe opposed the elaborate scheme, not on moral grounds it would seem from his answer to Calvert, but because he considered the plan impracticable. Baltimore's friends, he said, usually get all such offices so that the governor has none to distribute; besides, members of the lower house as a rule are not qualified to fill such offices—many of them can scarcely write.[44] The last item of information is of interest when we consider that these same members felt themselves fully capable of deciding all points of constitutional law—better qualified, apparently, than the king's attorney-general.

Very little was contributed by Maryland during the last year and a half of the war. Five times within less than eighteen months did the lower house pass bills embodying points which the king's attorney-general had pronounced unlawful, and each time the upper house refused to concur. Neither would give way although the enemy was ravaging the frontier. Whenever the attention of the lower house was called to the opinion of the attorney-general their answer was simply that *they did not agree with him.*[45] His opinion seemed to impress them no more than that of the least able of their own members.

There was little apparent loyalty to the interests of the mother country[46] or respect for authority. On the other hand the proprietor cared only for his own interests. The end of the war relieved the pressure of opposing interests, but it was certain to reappear under similar conditions.

While proprietary government in itself was not entirely responsible for the discord in Maryland and Pennsylvania, no small part of it is traceable directly to this anomalous creation of British rulers. Attributes of sovereignty combined with ownership of the soil worked badly wherever it was tried. To obtain sufficient revenue for governmental purposes was difficult

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[44] *Corresp. of Gov. Sharpe*, ii, 423-431. Sharpe to Calvert, July 7, 1760.

[45] *Ibid.*, 394, Sharpe to Pitt, April 14, 1760.

[46] *Ibid.*, 397. Sharpe to Baltimore, May 4, 1760.

enough in all of the colonies, but the introduction of another factor to separate still farther sovereign from subject added to the expense and confused legitimate requirements with proprietary greed, in the minds of the people.

IV. THE SOUTHERN COLONIES

Virginia

When the French appeared on the Ohio, Virginia had a greater interest in preventing their encroachments than any other colony. She was interested in extending her claims westward and the presence of the French caused her much concern. As soon as the plans of the French were discovered Governor Dinwiddie took steps to drive out the invaders and hold the country for England. While the initiative devolved upon Virginia, the neighboring colonies were asked for assistance. It has already been noted that for some time Pennsylvania and Maryland would do absolutely nothing, and, as will appear further on, the southern colonies did very little.

Dinwiddie was forced to rely principally on his own colony for sinews of war, and unfortunately for the success of his plans, the conditions were not favorable even there. Without the cooperation of the assembly the governor was powerless, for that body controlled the finances of the colony; and the members at this time were in no mood to coöperate with a governor who was attempting, in their opinion, to deprive them of their "inherent" and "British rights." A controversy was already in progress when the enemy made his appearance, and little could be done in defense of the colony until constitutional questions had been settled.

In 1753 Governor Dinwiddie for the first time attempted to collect a fee of one pistole[47] for affixing the official seal to land patents. In November of that year inhabitants from several counties petitioned the house of burgesses for protection against this new burden.[48] The burgesses sent an address to Dinwiddie

[47] A Spanish coin worth about $3.50.

[48] *Journals of the House of Burgesses, 1752-1758*, 121, 129. All references to the *Journals* refer to this volume.

asking whether the fee demanded at the secretary's office had been charged by the governor's order, if so, by what authority.[49] Dinwiddie replied that he had ordered the fee collected and gave as his authority the advice of his council and "Powers from Home."[50] The first part of his statement was true, but the "Powers from Home" were largely imaginary. Not convinced by the proofs submitted by the governor, the house of burgesses sent him a vigorous protest declaring his action unlawful. They based their interference in the land question on the "undoubted Right of the Burgesses to enquire into the Grievances of the People," any abridgment of which would be dangerous to their liberties and to the constitution of the colony. "The Rights of the Subject," they asserted, "are so secured by Law, that they cannot be deprived of the least Part of their Property, but by their own Consent." Upon this excellent principle, they said, their constitution had been founded, and the king had declared "'That no Man's Life, Member, Freehold of Goods, be taken away or harmed, but by established and known Laws.'"[51] It will be seen at once that the burgesses had constructed a huge man of straw for the purpose of demolishing him. The excellence of the principles invoked can not be gainsaid, but their relevancy is more than doubtful as Dinwiddie pointed out in his answer.[52] However unjust the imposition of the fee may have been it related solely to the disposal of the king's lands—the purchase of which was optional on the part of the buyer—and not to taxation or the administration of government.

More to the point was the other argument of the burgesses based on precedent and royal charter. The governor's attention was called to the fact that no such fee had been exacted by the old Virginia Company, and that Charles II by charter had ordained that the method of the old company should be continued. Lord Howard of Effingham had attempted, they said, to exact a fee

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[49] *Journals*, 136.

[50] *Ibid.*, 141.

[51] *Ibid.*, 143-144; *Dinwiddie Papers*, i, 46.

[52] *Journals*, 154.

for the use of the seal, but had been forbidden to do so by William III and his Privy Council. Upon this representation the governor was requested to withdraw his order for collecting the fee.

When the governor declined to rescind his order to the secretary and declared that he was more than ever convinced of its justice, the burgesses were so incensed that they passed a series of resolutions condemning his action and providing for an appeal to the crown. The governor's action in demanding the fee they pronounced "illegal and arbitrary"—a violation of charter rights and a subversion of their constitution. It was a hinderance to settlement and therefore detrimental to both king and subject. They resolved to send Attorney-General Randolph to England as special agent to protest to the king against the conduct of the governor. Although they pleaded poverty when asked for money to defend the colonies, the burgesses agreed to pay Randolph £2,500 for his services, and promised him a pension in case he should lose his office of attorney-general on account of his mission. The king, however, was especially petitioned to continue Randolph in his office. When the council refused to allow this salary the house of burgesses on their own responsibility voted to deduct that amount from the crown revenues, and the treasurer was directed to pay it without the concurrence of either council or governor. The treasurer, who was also speaker of the house, expressed his willingness to carry out their order, but the governor would not issue a warrant for the money.[53]

Their appeal to the crown caused Dinwiddie considerable anxiety and he admitted to his agent in England that he never would have taken the fee had he known that so much trouble would come from it. He was particularly annoyed because it had made "so much Noise in the Coffee Houses" in England.[54] The Privy Council compromised the matter by rejecting the petition of the burgesses but forbidding the collection of a fee on tracts

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[53] *Journals*, 154-156, 167-169; *Din. Pap.*, i, 72, 140, 160.

[54] *Din. Pap.*, i, 137-139. To James Abercromby, April 26, 1754.

under 100 acres. This was practically what the burgesses had asked. Dinwiddie now threw the entire blame on the council and declared that he, personally, had never desired to collect the fee.[55] The payment of Randolph's salary still remained a bone of contention and impeded the voting of supplies.

While the pistole question was pending in England the house of burgesses voted £10,000 for frontier defense, although one of their prominent members questioned the king's title to the Ohio Valley.[56] With this first war bill the burgesses adopted a practice which they continued to follow although it was pronounced unconstitutional by the governor. In the body of the bill they named directors whose duty it was to decide how the money should be spent. But they did not deprive the governor of his right to approve appropriations as was done in Pennsylvania. Their "republican Principles" Dinwiddie denounced in various letters, and he declared that necessity alone induced him to sign such a bill.[57] Anxiety over the pistole affair no doubt helped to secure his signature, but aside from this he was too politic to carry resistance to extremes. He frankly admitted that he had no influence over his assembly[58] and a year later he expressed his belief that crown instructions should be suspended when urgency required it.[59] He thought the governor and assembly of Pennsylvania differed over trifles while the colonies were in danger, and he believed that proprietary estates should be taxed the same as other property.[60] Although Dinwiddie met with opposition at times, he secured more money from a reluctant assembly than any other governor south of New England.

Even after money had been voted by the assembly great difficulty was experienced in getting men to enlist except those of

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[55] *Din Pap.*, i, 262, 263, 370. To the Board of Trade, Oct. 25, 1754.

[56] *Ibid.*, 102; Hening, *Statutes*, vi, 417 et seq.

[57] *Din Pap.*, i, 103, and other letters.

[58] "W't Influence You may have over Y'r Assembly I know not, but I frankly tell You I have none over this here, further than arguing on the necessity and leaving the Quantum to them." To Gov. Glen of S. C., April 15, 1754. *Din. Pap.*, i, 128.

[59] *Ibid.*, ii, 29.

[60] *Ibid.*, i, 507; ii, 181.

the poorest quality, and the militia law in force was extremely inadequate. Under the latest militia law, passed in 1748,[61] the militia could not be taken from the colony. The pay of the troops was small and they were obliged to equip themselves. Provisions and conveyances might be pressed into service but not until they had been appraised and proper allowance made to the owners, all of which consumed considerable time. Many of the soldiers feared that they would never receive even the small pay allowed by this law, and refused to serve. Washington frequently complained of the bad condition of those already in the ranks.[62] The officers, he said, were threatening to resign for lack of pay. He wished to serve without pay rather than accept such a small amount and be uncertain of getting that. He would rather "dig for a maintenance . . . . than serve upon such ignoble terms."[63] Little could be accomplished under such conditions, and it was some time before the governor and assembly could sufficiently harmonize their opinions on constitutional questions to provide for defense. Practically no assistance was received at first from other colonies, and Dinwiddie proposed to Lord Halifax and other British officials that a poll-tax be levied in all the colonies for war purposes.[64]

When the assembly met in August, 1754, Dinwiddie again asked them to vote money for defense. The burgesses commended Dinwiddie for his prudent measures in defeating the designs of the French, but at the same time they embraced this opportunity to force the governor to accept their terms. They voted £20,000 for the king's service but attached as a rider the payment of Randolph's salary of £2,500 for his services in Eng-

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[61] Hening, vi, 112 et seq.

[62] Washington, *Writings* (Ford's ed.) i, 42. "We daily experience the great necessity for Cloathing the men, as we find the generality of those, who are to be enlisted, are of those loose, idle persons, that are quite destitute of house and home, and, I may truly say, many of them are cloathless; . . . . There are many of them without shoes, others want stockings, some are without shirts, and not a few that have scarce a coat or waistcoat to their backs." See also pp. 150 et seq.

[63] *Ibid.*, 63-65.

[64] *Din. Pap.*, i, 238, 251.

land—the same that Dinwiddie had previously refused to allow. The governor agreed to pass the rider as a separate bill provided they would insert a clause suspending its operation until the king's will should be ascertained, but the burgesses insisted on the passage of the bill as it stood.[65] Accusing them of hypocrisy and severely denouncing their conduct, Dinwiddie prorogued the assembly without procuring the necessary supplies. "See you call'd upon," said he, "in ye Day of your Country's Distress; hear you declaring your knowledge of her Danger, and professing the most ardent Zeal for her Service; yet find these declarat'ns only an unavailing Flourish of Words . . . . You withhold Y'r aid and thereby leave the Enemy at full Liberty to perpetuate their destructive and unjust designs."[66] Before being prorogued the burgesses asked the governor to express their thanks to the king for his paternal care in sending his independent companies from New York and South Carolina to defend their colony; but excused themselves from granting supplies to these same companies and hoped that his Majesty would be "graciously pleased" to provision them himself.[67]

The assembly convened again in October and the governor in his address painted the impending perils in glowing colors, regretting that he could not find words to make it more soul-stirring. In an equally effusive reply the assembly promised their hearty support, assuring the governor that no harm would ever come to the colony through their neglect.[68] They passed two acts which they considered very magnanimous, but which were not conducive to successful military operations. Both conformed to old principles, and the militia act very largely counteracted the benefits derived from the other. The militia act[69] permitted the enlistment of "such able bodied men, as do not follow or exercise any lawful calling or employment, or have some other

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[65] *Journals*, 198; *Din. Pap.*, i, 298-300, 328.

[66] *Journals*, 205; *Din. Pap.*, i, 302, 328; *Col. Rec. of N. C.*, v, 138.

[67] *Journals*, 200.

[68] *Ibid.*, 209, 211.

[69] Hening, *Statutes*, vi, 438-439.

lawful and sufficient support or maintenance," for that particular expedition. All who were entitled to vote for members of the house of burgesses were exempted from service. The act was to remain in force for one year. So jealously did the burgesses guard the "rights" of the people that only vagrants could be enlisted for duty outside of the province, and even they could not be forced to enlist. This house opposed all draft laws as violating their rights as Englishmen. Such was the kind of soldiers sent to defend the empire; it is little wonder that Washington continually complained of the personnel of his army.

By the other act the assembly granted £20,000 toward the expenses of the expedition. As usual the disbursement was put in the hands of directors, but all payments required the governor's approval. Dinwiddie accepted the grant on these terms more graciously than before and "parted with the (our) Assembly on very good Terms."[70]

Little assistance came from the surrounding colonies.[71] Neither their country's interests nor their own danger could overcome the indifference of the people or their representatives;[72] but they were keenly alive on questions relating to their rights and privileges. But the executives who criticised the assemblies were equally headstrong and unyielding. While the strife continued the inhabitants were being butchered and their property destroyed.

The arrival of Braddock caused nearly all of the colonies to vote some additional assistance. But the general's first experience with Virginia was not a happy one. On May 15, 1755, he sent a letter to Dinwiddie stating that he would remove all effective troops from Fort Cumberland and asking the governor

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[70] *Din. Pap.*, i, 409. To James Abercromby, Nov. 16, 1754.

[71] Dinwiddie wrote on March 17, 1755, that the neighboring colonies had not granted "any Assist'ce either in Money, Men or Provis's, except N. York, ab't 3,000 St'g; No. Car., 6,000, their money; M'yl'd the same sum; So. Car. and Pensylv'a, not a Farthing." *Col. Rec. of N. C.*, v, 394-395.

[72] "but truly I think," wrote Dinwiddie to Halifax concerning all the colonies, "in gen'l, they have given their Senses a long Holliday." *Din. Pap.*, i, 513.

to garrison it with militia. The assembly at once protested that such a measure was contrary to law, as the fort was located in Maryland, and also that the expense would "tend to the utter Ruin of this Colony." Dinwiddie reminded them that Fort Cumberland had been built to protect the colonies in general and rightly said that "it is of no Consequence whether it is in *Virginia* or *Maryland;* it is the King's Fort, and the Guns mounted there, are those sent by his Majesty for such Uses." The burgesses yielded temporarily to the extent of introducing a bill to draft not more than fifty men for this purpose, but the bill was rejected at its third reading.[73] For the western expedition the burgesses granted £10,000 and agreed to raise two hundred men for frontier defense.[74]

The defeat of Braddock in July caused great consternation in Virginia, and for a time aroused some enthusiasm for the British cause. When the assembly met in August they readily voted another £40,000 and enacted a more effective militia law.[75] The last two amounts voted were in bills of credit instead of sterling, but payable within the five year limit fixed by the British government. As there was great need of money for war purposes the governor, although opposed to paper money, signed the bills without protest.

The militia bill just passed proved inadequate. At the October session the governor urged the passage of a law similar to the British militia act, but his recommendation was disregarded. Up to this time controversies over paper money, so frequent in some of the other colonies, had not appeared in Virginia, but during this session the house of burgesses seemed to have caught the contagion. They passed an act for issuing £200,000 in paper money to be current for eight years. This would impair the credit of the colony to a degree that the governor was not willing to permit and he refused to sign the bill. After several altercа-

[73] *Journals*, 267, 268, 272, 284.

[74] *Din. Pap.*, ii, 86.

[75] Hening, *Statutes*, vi, 521 et seq.; *Din. Pap.*, ii, 142; *Journals*, 314.

tions concerning the constitutionality of the bill, Dinwiddie dissolved the assembly and waited for a new election.[76]

At the beginning of 1756 little had been done to prevent the encroachments of the enemy. The money which had been raised could not be used effectively so long as the people refused to enter the service. Dinwiddie recommended to the Lords of Trade that convicts sentenced to transportation should be sent to serve at the frontier forts.[77] The militia according to the governor's estimate numbered about 3,600, but nearly all of them were freeholders who insisted on their privilege of not serving except in cases of imminent danger, and then only within the province. With the enemy at their door it took four months to enlist less than five hundred recruits, and these were of an inferior class.[78] Washington wrote from the frontier of the distress of the inhabitants, and saw nothing ahead but "inevitable destruction" unless the assembly should adopt more vigorous measures.[79]

When the new assembly met in March, 1756, General Shirley's call for troops to serve at Niagara and Crown Point was placed before them by the governor. The burgesses at once pronounced it "impracticable and imprudent" to send troops so far at this time, and the council agreed with them.[80] But on account of the recent massacres on their own frontiers they voted £25,000 and included in the act a provision for drafting militia.[81] This provision, however, was practically valueless, for any one who had been drafted might escape service by paying £10, and we are

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[76] *Journals*, 319; *Din. Pap.*, ii, 269.

[77] Feb. 23, 1756. *Din. Pap.*, ii, 339.

[78] Dinwiddie to Halifax, Feb. 24, 1756. *Din. Pap.*, ii, 346. See also p. 339.

[79] To Dinwiddie, April 22, 1756. *Writings* (Ford's ed.) i, 249. On April 16, he had written to John Robinson, Speaker of the House of Burgesses, that the people would do nothing to help themselves. " . . . . the timidity of the inhabitants of this country is to be equaled by nothing but their perverseness. Yesterday was the time appointed for all to meet who were inclined to join for this desirable end, and only fifteen came, some of whom refused to go but upon such terms as must have rendered their services burthensome to the country." *Ibid.*, 241.

[80] *Din. Pap.*, ii, 379-380; *Journals*, 345.

[81] Hening, *Statutes*, vii, 9 et seq.

told by Dinwiddie that many availed themselves of this privilege.[82] No drafted troops could be taken to serve outside of the province. As other colonies had similar laws restricting their troops to service within their own borders, offensive warfare was practically impossible. Discipline was equally impossible under existing laws. Deserters turned their guns against their own officers and defied their authority.[83] "They go off in twenties," wrote Washington, "and all threaten to return (home), if they are not relieved in a very short time or discharged."[84] Desertion was made easier by the connivance and assistance of the very inhabitants who most needed protection.[85] The feeling of common interest was so utterly lacking that the inhabitants of one county would refuse aid to those of another.[86]

In the matter of money Virginia was liberal for the time. Even Dinwiddie admitted that the burgesses had granted as much as the colony could afford, and more than the assembly of any other colony;[87] but at best they were "only keeping the expedition alive." Each colony preferred to act by itself and in its own way, therefore little was accomplished.[88] As a result of the militia laws in force the enemy could attack one province at a time without fear of being molested by troops from another colony. The feeling in Virginia is well illustrated by her vote of £8,000 for enlisting troops for the king's regiment of Royal Americans and

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[82] *Corresp. of Gov. Sharpe*, i, 444.

[83] Washington, *Writings* (Ford's ed.) i, 269-276.

[84] *Ibid.*, 286. On October 10, 1756, he wrote Dinwiddie: "The militia are under such bad order and discipline, that they will go and come when and where they please, consulting solely their own inclinations." *Writings*, i, 357.

[86] "When Hampshire was invaded," wrote Washington to Lord Fairfax, "and called on Frederick for assistance the people of the latter refused their aid, answering, 'Let them defend themselves, as we shall do if they come to us.' Now the enemy have forced through that county, and begin to infest this, those a little removed from danger are equally infatuated; and will be, I fear, until all in turn fall a sacrifice to an insulting and merciless enemy." *Writings*, i, 331.

[85] *Ibid.*, 326; *Pa. Arch.*, ser. 2, ii, 694.

[87] *Din. Pap.*, ii, 420. Up to June, 1756, Virginia had granted at various times £150,000. *Ibid.*, 437.

[88] *Corresp. of Gov. Sharpe*, i, 407. Sharpe to Albermarle, May 5, 1756.

transporting them to New York, accompanied by a refusal to permit a single man to be drafted for that service.[89] No authority, no emergency could induce the burgesses to yield what they considered their constitutional rights. Men who enjoyed, as they claimed to do, "the Blessings of a *British* Constitution, reduced to its original Purity"[90] could hardly be expected to submit to compulsory military service.

The relations between governor and assembly during the year 1757 seem to have been more harmonious than usual. At the close of the session, which lasted from April to June, the governor informed Sharpe that the assembly had "generously granted every Thing" he had asked of them.[91] They voted to increase their regiment to 1200 men and granted £80,000 to maintain them. An additional sum of £3,000 was voted for the purpose of buying presents for the Indians. In order to complete the regiment, drafting was permitted, but again it was restricted to non-freeholders—that is, "vagrants and dissolute persons." Two companies were to be sent to assist South Carolina, and two additional companies if the British commander should deem it necessary.[92] This was a notable departure from their former exclusive policy, but as these troops were all vagrants their "rights" were not quite so sacred. Pitt's vigorous war policy and a promise of reimbursement seem to have impressed the assembly favorably. But recruiting was still difficult. Washington despaired of filling the ranks unless the officers were permitted to enlist indentured servants.[93]

Another act passed during this session imposed the death penalty for mutiny and desertion,[94] and still another provided for mustering, training and equipping the militia for defense within the province.[95] They still refused to subject their troops

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89 *Din. Pap.*, ii, 524.

90 *Journals*, 404.

91 *Din. Pap.*, ii, 639; *Corresp. of Gov. Sharpe*, ii, 25.

92 Hening, *Statutes*, vii, 70, 75.

93 *Writings*, i, 474.

94 Hening, *Statutes*, vii, 87 et seq.

95 *Ibid.*, 93 et seq.

to regular British army discipline,[96] but the provisions adopted marked a distinct advance over the old regulations. Another element of discord was removed during the same year when Dinwiddie ordered Fort Cumberland evacuated. It was thought that the Maryland assembly would provide for this post, but they indignantly refused to do so.[97]

In 1758 the burgesses adopted a still more liberal policy. They voted to augment the forces of the colony to 2000 men to be used wherever the British commanding officer should think best.[98] Money was freely voted at both sessions held during that year. This policy was continued during the remaining years of the war. There had been a heavy drain on the resources of the colony and the money grants were not large, but a greater spirit of liberality was shown in putting the troops under control of British generals to be used in offensive warfare.

By too jealously guarding the rights of freeholders and the special interests of their own province, the burgesses had seriously impaired the military efficiency of the colony, but on the whole their conduct compared favorably with that of the neighboring governments. The valuable services rendered toward the close of the war only emphasized the necessity of some general authority with adequate power to act in military affairs, unhampered by local prejudices.

North Carolina

In North Carolina conditions were not favorable for active participation in the war. A jealous guarding of charter rights,[99] factious disputes, and a vicious financial system all tended to prevent a proper support of the general cause.

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[96] *Din. Pap.*, ii, 692. Dinwiddie to Gov. Littleton of S. C., Aug. 27, 1757.

[97] Washington, *Writings*, i, 434, notes.

[98] Hening, *Statutes*, vii, 163 et seq.

[99] The charter granted by Charles II was liberal, and after it had been abrogated in 1728 the assembly still claimed rights under it. "To them, Magna Charta, 'the great charter,' was not the one granted by King John to the English Barons at Runnymede, but the one granted by Charles the Second to the Lords Proprietors of the Province of Carolina." Prefatory notes to vol. vi, *Col. Rec. of N. C.*, p. iii.

Some energy was displayed by the assembly at the beginning of the war, North Carolina being the first[100] to send aid to Virginia when that colony was making preparations to repel the French. Unfortunately this aid proved of little value. In March, 1754, the assembly voted 750 men for the assistance of Virginia, and £12,000 for their maintenance,[1] but it was proclamation money which Dinwiddie pronounced "nearly worthless."[2] The officers were unable to raise the whole number of troops voted, but those who did enlist were joined to the British independent companies without opposition and paid a larger allowance than troops of other colonies. The assembly doubtless meant well in allowing large pay to the troops, but as a result of this and the slowness of recruiting the money was spent before the troops were ready for service, and they became a burden rather than an aid to Virginia. The officers of the independent companies would not serve under Virginia officers and the troops deserted as soon as the money was gone.[3]

Recruiting in North Carolina as in other colonies was slow and difficult. Little power was given to the governor to enforce the few regulations which had been established by law. A law was passed authorizing the drafting of unmarried men, but they avoided the draft by open defiance or hiding. County officials neglected or refused to make proper returns to the governor, thereby aiding the delinquents and nullifying the laws in a great measure.[4] It should be noted, however, that when the assembly did vote troops they did not restrict the place and time of their service.[5] North Carolina stood quite alone in this freedom from local prejudice.

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[100] *Din. Pap.*, i, 162.

[1] *Col. Rec. of N. C.*, v, 738. Jas. Abercromby to Board of Trade.

[2] So much complaint was made by British merchants because this money was made a legal tender in the province that in 1759 the Privy Council ordered Governor Dobbs to recommend the repeal of the legal tender law. *Col. Rec. of N. C.*, vi, 43-45.

[3] Dinwiddie to Secretary Fox, July 24, 1754; Same to Secretary Robinson, Sept. 23. *Din. Pap.*, i, 246, 327.

[4] *Col. Rec. of N. C.*, v, 571. Dobbs to Board of Trade, March 15, 1756.

[5] *Ibid.*, 738-739. Abercromby to Board of Trade.

Factional quarrels continued through nearly the entire period of the war. At first the trouble was not with the governor, but hostile factions were contending for supremacy. Governor Dobbs wrote that when he came to the colony he "found it had been divided into Parties, and in a very low state; and one-half of the Province not obeying the laws made by the other, nor attending the Assemblies, refusing to pay the Taxes which the Assembly raised, so that the Colony was in debt, and obliged upon the present breaking out of this war to raise £40,000 in paper of this Currency (£30,000 Sterling) which half of this Province would not receive nor circulate."[6]

But disputes between governor and assembly were not wanting. In January, 1759, Governor Dobbs complained to the Board of Trade that the lower house claimed full control over all money voted by themselves as well as that granted by Parliament.[7] The lower house in May of that year voted £6,000 for troops, but the money was to be controlled by themselves. The bill was rejected by the governor and council after futile attempts to induce the lower house to alter it.[8] The lower house then preferred a series of charges against the governor. Among other things he was accused of illegally collecting license fees, and of taking a toll from the money sent from England. He had without lawful authority appointed his nephew paymaster with no duty except to collect these fees. The money already voted had, they said, been wasted by incompetent officers appointed by the governor.[9] No doubt there was much truth in these charges; at any rate they served as an excuse for exclusive control of finances by the lower house. Both sides were censured by the Lords of Trade for haggling over trivial points at such a time, and Dobbs was especially criticised for attempting to dictate the choice of an agent to represent the colony in England.[10] Similar disputes

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[6] *Col. Rec. of N. C.*, v, 595. Dobbs to Loudoun, July 10, 1756.

[7] *Ibid.*, vi, 1-7.

[8] *Ibid.*, 32.

[9] *Ibid.*, 410 et seq.

[10] *Ibid.*, 538 et seq. Board of Trade to Dobbs, April 4, 1761.

occupied the time during the first session of 1760, and after several failures to agree, a bill was finally passed in June for raising 300 men.[11] That so small an amount of money was sent them from England the assembly attributed to the want of an agent in London;[12] and they had no agent at this time because Dobbs claimed the right to dictate the choice. In the spring of 1761 the lower house attached the appointment of an agent as a rider to a bill granting £20,000 for the king's service. But the house lacked the resisting power possessed by some of its contemporaries, and when this bill was rejected by the governor and council they withdrew the rider and granted the money.[13] As the war soon ended nothing further was asked of them. Discord continued, but the disputes were now confined to local matters.

South Carolina

Before the war period the South Carolina governor had been deprived of many of the powers usually enjoyed by the governor in other colonies. The war, therefore, did not materially alter the situation. The council had already curtailed his legislative powers and the lower house had usurped the power of appointing administrative officials.[14] James Glen, who had assumed the government in 1743, attempted to regain the lost powers but with little success. The claim of the commons (lower house) that their money bills must be passed or rejected by the council caused discord between the two houses. A dispute on this question arose in 1756 over the refusal of the council to concur in a bill granting £41,000 for a frontier fort and other purposes. Glen seems to have resented the usurpations of the council more than those of the commons, for in this matter he gave his support to the latter. A writer of the time—champion of the commons—proved to his own satisfaction, and doubtless to that of the

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[11] *Col. Rec. of N. C.*, vi, 257, 266.

[12] *Ibid.*, 477.

[13] *Ibid.*, 654, 659.

[14] McCrady, *South Carolina under the Royal Government*, 254-259.

people, that the council had no legitimate claim to the functions of an upper legislative house.[15]

Like other southern colonies South Carolina did not take a very active part in defending the British domains. The British independent company of 300 men which she supported participated with the Virginia forces in the battle of Great Meadows, and £6,000 was voted for the Braddock expedition,[16] but during the greater part of the war her activities were confined principally to the defense of her own frontiers. Disputes between the assembly and Governor Glen delayed action even on the frontiers, and little had been accomplished when he retired from power in June of 1756.[17]

The currency of the colony was so badly depreciated[18] that the money voted was practically worthless as a purchasing medium. As there was practically no metal money in the province and Governor Glen would not sign bills for increasing the amount of currency, little effective aid could be given while he remained in office. Even Dinwiddie criticised Glen for adhering too closely to his instructions[19] and thereby obstructing money grants; but private grievances no doubt influenced the former's opinion as the two men were not on the best of terms.

Greater harmony prevailed during the administration of Governor Littleton. Money was voted for frontier forts and British army rules of discipline were adopted for the troops of the colony.[20] The latter measure was remarkable for the time as other colonies jealously guarded the privilege of maintaining discipline in their own way.

Georgia

Little military assistance could be expected from Georgia,

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[15] McCrady, *op. cit.*, 282-287.

[16] *Din. Pap.*, i, 249. Dinwiddie to Earl of Granville.

[17] *Din. Pap.*, ii, 508.

[18] Dinwiddie stated in a letter to Hamilton, April 27, 1754, that £100,000 S. C. money was not quite equal to £20,000 in Va. currency. *Din. Pap.*, i, 143.

[19] *Din. Pap.*, ii, 28, 29.

[20] *Ibid.*, 508, 692.

for she was unable to protect even her own borders. When in 1755 Governor Reynolds placed before the commons house a letter from Secretary Robinson asking for aid, that body replied that if their "Abilitys were equal to their (our) Inclination" they would contribute liberally, but they were able to "contribute Little or Nothing either as to men or Money" to the general defense.[21] On the contrary they requested the governor to ask the king for means of defense.[22]

Their military weakness was not exaggerated, for as late as 1757 their entire army consisted of forty rangers of their own and a few troops sent there from the independent companies of South Carolina. Their forts were in such a dilapidated condition that on celebration days the guns had to be taken from them for fear the shock of the discharge would cause them to collapse.[23]

While Georgia figured little in disputes over war supplies, she furnished another phase of the controversy over constitutional rights which was both interesting and unique.

Georgia became a royal colony in 1755 and therefore did not possess a long list of accumulated "rights" which must be respected. The task of her legislature was to procure rights and privileges, not to preserve old ones.

Profiting by the example of other rebellious colonies the British government circumscribed the privileges of the Georgia assembly within very narrow limits. The usual privilege of admitting members at their discretion and fixing the qualifications for voters was denied the commons—lower house of assembly—and large powers were given to the governor. Naturally this was resented by the commons. They first asked for privileges usual in American governments, and when the request was denied they proceeded to assume them in defiance of authority.

During the very first session of the assembly under the new government they prepared a series of remonstrances to be sent to the king. They complained that the fixing of fees of public

[21] *Col. Rec. of Ga.*, xiii, 47.

[22] *Ibid.*, 61.

[23] *Ibid.*, 130. Report of a committee, Jan. 25, 1757.

offices is entirely in the hands of the governor and council, and asked that such fees be "settled by Act of General Assembly and not otherwise as is the Custom of all your Majesty's other Provinces in America."[24] The royal instructions required that all voters must possess a freehold of at least 50 acres of land, and no one could be a member of the commons house unless he possessed a freehold of 500 acres. Both of these requirements were opposed by the commons. They asked for the privilege of fixing qualifications in both cases by law.[25] At first the governor approved these requests and expressed a desire to have them granted,[26] but when he received a negative reply from England he immediately adopted the English point of view.

The governor's instructions also required him to see that the number of members in the commons should neither be increased nor diminished, but before the commons received an answer to their remonstrance they proceeded to unseat members at will and thereby cut down the membership.[27] As soon as the governor heard from England he announced the new policy of the ministry. The ministry admitted that by "long Usage" other colonies were exercising the privileges desired by the commons of Georgia, but they also declared such practices to be "inconsistent with all Colony Constitution whatever, contrary . . . . to the Express direction of His Majesty's Commission, by which alone this Assembly is Constituted."[28] Here is a direct denial of all inherent rights, and an announcement that colonial rights in future must be limited to concessions made by royal instructions. In Georgia this new policy could be first and most easily applied, for a new form of government was just being instituted.

The governor informed the commons that none of their acts would be considered valid until they had complied with the king's instructions, but his warnings were unheeded. When

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[24] *Col. Rec. of Ga.*, xiii, 72-73.

[25] *Ibid.*, 73-75.

[26] *Ibid.*

[27] *Ibid.*, 91-92. Message to assembly, Feb. 12, 1756.

[28] *Ibid.*, 92.

the governor adjourned the assembly for refusing to comply with his demands, the commons held the speaker in the chair by force, and, proceeding to transact business regardless of the governor's order, compelled the speaker to affix his signature. The books of the clerk were seized and the records altered to suit the commons.[29] For a time all communications between the two branches of government ceased, and the governor ended the controversy by dissolving the commons and calling a new election. The commons did not again resort to such violent measures. At various times they claimed privileges which the governor under his instructions was unable to allow, but as no contributions were asked of them comparative harmony prevailed during the remainder of the war period.

That the colonial administrative system of England—if indeed it can be said that there was any system—was inadequate and impotent was apparent to every one whose duty it was to carry it into operation. The acts of defiance, evasion, and insubordination in the colonies during the war had made this sufficiently clear. In nearly every clash of authority the colonists had been victorious, that is, they had either secured that for which they contended or subverted the plans of the prerogative party. Each colony had its own peculiar interests and was indifferent in a great measure to questions of general welfare. The colonists were glad that they were Englishmen and there is no evidence of a conscious desire for independence. They were even willing to contribute aid to the common defense, provided it could be done in their own way. It must, however, be accepted as a free gift with a distinct understanding that coercion was unlawful and not to be tolerated. Royal or proprietary instructions which abridged this freedom were resented and ignored. A refusal to obey instructions naturally led to denial of authority to issue them. The degree of freedom from authority demanded by some of the colonies was incompatible with the status of dependencies as generally understood at the time. The

[29] *Col. Rec. of Ga.*, xiii, 99-101. Message of the governor, Feb. 19, 1756, and statement of the speaker.

degree of liberty demanded could be secured only by virtual independence. England recognized this fact more clearly than the colonies did and was preparing to check these independent tendencies.

It is easy to look back and see that instead of employing coercive measures England might have been more successful had she adopted an autonomous colonial system like that in force in Canada and other colonies today. Nothing of the kind could have reasonably been expected in the middle of the eighteenth century. Such a relation between colonies and mother country was yet unknown, and England naturally adopted the policy with which she was most familiar.

Colonial governors, British generals, and British administrative officers had but one remedy to offer, and from the beginning of the war this was urged upon the home government on every possible occasion. Their remedy was parliamentary control and parliamentary taxation to support it. This, they urged, was the only method of insuring obedience and order in the colonies. The attempt of Parliament to act upon this advice and inaugurate a new system, it is needless to add, led directly to the Revolution.

Briefly surveying the struggle already given in detail, it may be observed that the extent of opposition to imperial government varied considerably in different colonies, and increased in proportion to the amount of outside restraint. In Connecticut and Rhode Island where the people enjoyed virtual independence they were usually public spirited and ready to coöperate with the mother country. Proprietary colonies on the other hand, subject to double restrictions from proprietor and king, were the ones which did most to obstruct imperial administration. In later years this might have pointed the way to a successful solution of the administrative problems, but it could hardly be expected that Great Britain at that time would adopt the homeopathic treatment of permitting greater freedom in order to forestall independence.

No summarized statement of the degree of autonomy and the

grounds upon which it was based can be made that will apply to all of the colonies separately. Both depended in a great measure on local conditions and the relation of each individual colony to the mother country. By combining items, however, it is possible to state what the colonies collectively demanded from the central administrative authority. The colonies as a rule kept in close touch with controversies in other places, therefore independent views of any particular assembly soon found an echo in the neighboring provinces.

Except in colonies where the people elected all officers the popular branch of the legislature claimed exclusive control over financial matters. All money voted was a free gift of the people, therefore money bills must not be amended. If all money granted was a free gift, it followed that the peoples' representatives should have the exclusive right to determine how it should be raised—that is, the right to dictate the method and extent of taxation. They also claimed exclusive control of the raising, disciplining, and the movement of colonial troops. Many colonies as we have seen, were inclined to restrict their troops to defensive service within their own borders, making defensive warfare difficult and offensive campaigns practically impossible. The privilege of adjourning at will, wholesome in itself, was often abused by assemblies in critical times.

They based their claim to exclusive control of financial matters on precedent and the "rights of Englishmen." Parliament possessed this right in England and, being Englishmen, the colonists claimed a similar right for their assemblies, within their own jurisdiction. As Parliament did not represent Englishmen in America its taxing power did not extend to America. In short, they desired all the rights of Englishmen, but comparatively few of the duties. Some colonies claimed additional rights based on their charters, and held that such rights once given were an irrevocable bar against both king and Parliament. In this they made no distinction between rights and privileges. All maintained that their "rights as Englishmen" and "natural right" entitled them to the privileges of government without

any outside interference with their internal affairs. In a word, they had developed practically all the arguments that were used after the passage of the Stamp Act.

Whether and to what extent the claims of the colonists were just we need not here discuss. The significant fact is that they were radically incompatible with the British colonial policy, one of which must give way. The American ideal was government by the consent of the governed. Like all Anglo-Saxons they did not take kindly to the role of a subject people. Prerogative they were unwilling to recognize. England had either to recognize this ideal and be satisfied with nominal sovereignty or the ideal must be shattered by a reorganization of the colonial system. Aside from the new general policy of George III and his Tory supporters and the changed conditions caused by the expulsion of the French, the defiance of the colonies and the inability of England to enforce its authority were sufficient to make alterations in the old system desirable if not imperative.

The attempt at reorganization lies without the scope of this paper. It began as soon as the war ended and resulted in the independence of the colonies. The colonies were prepared to meet the issue. During the seven years of controversy they had formulated their theories and were now ready to defend them. There was a unity of ideas, but up to this time there had been no unity of strength and action. Added pressure by the antagonist was certain to produce such a unity. So long as the policy of England remained weak and vacillating; so long as the administration was left to individual governors whose means of subsistence depended on the good will of the colonies themselves, each assembly was able to cope with the situation and preferred to do so. Up to this time local prejudice outweighed any desire for union. But when Parliament assumed control and began to subject the colonies to one general scheme of taxation and administration, concerted action on the part of the colonies became necessary. This characteristic marks the principal change of conditions after the passage of the Stamp Act. Unity of action was practically the only new element. Their doctrines,

theories, and arguments were the same; the policy of England, not that of the colonies, had changed. A more definite policy of England simply caused a united resistance, and at last the colonies came to see that nothing but independence could procure for them the desired freedom from restraint.

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THE VICEROY OF NEW SPAIN

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CHAPTER I

HISTORICAL INTRODUCTION

Although it is no longer necessary to show why the history and institutions of Spanish America should be studied with the same interest and care as are bestowed upon those of English North America or of Europe, nevertheless a change in the emphasis of the particular phases of Spanish American history to be investigated must be insisted upon. It is today recognized practically everywhere that the history of the Americas south of the United States has a dignity of its own, and we are now in a period in which there is evidence of an increasing attention to historical studies relating to Spanish America. This revival of interest in the working of what is, in some respects, an old field of history should, however, be turned in a direction which will enable us to realize the best results with the rich materials now available.[1] We must no longer suffer a preoccupation with the romantic

[1] The unusual facilities, compared with the past, which are now enjoyed by the investigators in the field of Spanish and Spanish American history are due principally to three facts. The first is the more liberal policy adopted in recent years by the officials of the Spanish archives in throwing open to foreign students and allowing them to work without subjecting the materials they take out to a censorship. These favorable conditions exist now in the great repositories of documents at Simancas, Madrid, and Seville. The second is the systematic study which is now being made of the archives of Mexico under the auspices of the Carnegie Institution of Washington. The third is the conversion of the great library of Mr. H. H. Bancroft from a private collection into a public one, accessible to all qualified students. It perhaps ought to be said that an additional aid is being offered to scholars by the action of the Mexican government in publishing so many documents of the highest value dealing with the history of the country. On the other hand, the great series of *Documentos Inéditos para la Historia de España* reaches only to the seventeenth century.

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age of the early conquerers and explorers, after the fashion of Irving and Prescott, or a concentration of interest on the wrongs of the native races, as with Las Casas and Sir Arthur Helps, or even an exclusively economic point of view, such as was so brilliantly held by Alexander von Humboldt. That which is of present urgency is a clear understanding of the general administrative system of the Spaniard in his dominions overseas. At the very outset, any such endeavor to understand what the Spanish colonial government really was, is confronted by the necessity of finding out and stating unambiguously the duties of the viceroy, how they were performed, and what were their historical consequences. One could scarcely devise a more instructive study in comparative institutions than that presented by the somewhat parallel development of the English rule in India and the Spanish rule in America, the whole centering in the office of the viceroy; but our interests are for the present restricted to the narrower view of the viceroy as a colonial officer in New Spain, and only an occasional comparison between him and similar officials of other European colonizing nations can be made.

The reasons for restricting this thesis to a consideration of the viceroy of New Spain in the eighteenth century are fourfold. In the first place, the viceregal office attained to its fullest development in Mexico, or New Spain, rather than in Peru, under the special guidance of the greatest of Spain's experts in colonial affairs, José de Gálvez, Minister General of the Indies (*Ministro Universal de Indias*). In the second place, in the eighteenth century, notably during the last thirty years of it, New Spain shared in those far-reaching reforms of the enlightened despot, Charles III,[2] which makes its history during that reforming epoch peculiarly important. The transformation which the Spanish colonial system underwent at this time can be studied to best advantage, as far as America is concerned, in the history of the viceroyalty of

[2] In many ways the clearest statement, in a small compass, of the scope and meaning of the reforms of Charles III in Spain is to be found in the little Stanhope essay, by Joseph Addison. The larger Spanish general histories of this reign, such as the one by Danvila y Collado, and the older work of Ferrer del Río, are very weak on matters relating to America and to the colonies.

invented to keep their successors properly under the control of the Madrid government. They were not only far removed from Madrid by distance expressed in geographical miles, but they were also separated by the long and uncertain time required to exchange despatches. This excessive difficulty of communication placed these *adelantados* so far beyond anything like direct supervision that they got out of hand and became in consequence a source of endless anxiety to their distant European superiors.[14] Desperate adventurers of the Cortés-Pizarro type did not lend themselves readily to the role of civil administrators obediently taking orders from a remote Council of the Indies. That celebrated council had been created in the reign of Isabella, but required a long period of years to gain experience and capacity for the great work expected of it, and it is not surprising that this body of elderly grandees, bureau clerks, and ecclesiastics found it difficult to command the respect and obedience of the first conquerors of America.

Although these conditions were bound not to be permanent, and were succeeded in the seventeenth and eighteenth centuries by an era of orderly government and internal peace, certain other evils developed which made clear the necessity of restraining the viceroys from ruling their territories like independent kings. By the eighteenth century the danger was passed that the viceroys would attempt to cut out for themselves independent states in defiance of the king, but a new set of conditions had grown up which called for interference on the part of such an enlightened despot as Charles III, quite as imperatively as the violence of the sixteenth century might have done. This greatest of the Spanish Bourbons came to the throne in 1759, after a long apprenticeship as King of Naples, and very early surrounded himself with capable ministers such as Aranda, Campomanes, and Florida Blanca. Before very long he was in the full tide of that

[14] As an illustration of the anarchy which was so common during the first period of conquest, and of the insubordination so often shown by the conquerors, it is sufficient to point to the difficulties arising between Cortés and Velásquez, and the open war which was waged for a time between Almagro and the brothers Pizarro.

reform legislation which attacked not only all sorts of abuses and medieval survivals in Spain proper, but also those evil conditions in the colonies that were brought to his notice.

These conditions were not of the kind which present any peculiar difficulties, as far as their intelligibility is concerned, to an American of the present day. The Spanish colonial administration was honeycombed with what is now familiarly called "graft." In spite of the best intentioned legislation on the part of the mother country, so flagrant had become the abuses of the Spanish domination that a fresh attack upon the powers of the viceroy, as the central figure of that domination, was bound to come. Probably no more scathing indictment of the work of any government has ever been printed than the one drawn up by Admirals Juan and Ulloa in 1736, and handed to Philip V, in the innocent form of a report of a tour of inspection of the military and naval establishments of Peru.[15] These *Noticias Secretas,* or secret memoranda, were in effect an exposé of the worst features of the Spanish rule. This celebrated report, written for the most part in a caustic, censorious tone, particularly when dealing with the clergy, exhibited a dreary picture of a country afflicted with an administrative dry rot, which left the native population cruelly oppressed by the very public officials who were designed to be their protectors, and which left the administration of justice, for native and Spaniard alike, corrupt and incredibly dilatory. Furthermore, if the mass of evidence bearing on this point is to be believed, the administration was everywhere, when not actually dishonest, antiquated and inefficient to a superlative degree.

Apparently the officials of the home government were too interested in the continuation of abuses or too lethargic to be aroused even by such a recital as that of Juan and Ulloa, and the

[15] The very important question of the degree of credibility due the *Noticias Secretas* has not, as far as I know, yet been raised. It is not to be doubted that there were specific examples in Peru of every abuse attacked by Juan and Ulloa, but the general picture drawn by them may reasonably excite suspicion from its extremely dismal tone. The discussion of the government by the corregidors (part ii, pp. 230–265) suggests many analogous conditions in Mexico.

king himself permitted their report to slumber unheeded for the rest of his reign. But after the accession of Charles III, a greater sensitiveness to various forms of misgovernment was observable. Only two years after his coming to the throne, in the year 1761, there was sent to New Spain in an inquisitorial capacity one José de Gálvez, with the title of *visitador general.* A visitor-general, it may be explained in passing, was a direct personal representative of the king, a kind of *legatus a latere,* clothed with extraordinary powers, limited only by the particular instructions which were given him with his commission.[16] He was, in civil and military, what the grand inquisitor was in ecclesiastical affairs, except that the visitor-general was not restricted in his investigations by any vain distinctions between the temporal and spiritual domains. The office of visitor-general had been used in Spanish America back in the days of the earliest viceroys, and the early records are filled with evidences of the conflict between these two high offices. The traditional enmity was to be seen again as soon as Gálvez arrived on the scene, and, owing to a dispute over the extent of his powers, he was not able to begin work until 1764.

Gálvez was expected to see things, as it were, with the eyes of the king, to investigate all sorts of men and conditions even to the viceroy himself, and to report back what he actually saw. Such a commission was not likely to make him a popular personage in the viceroyalty, and contemporaries were singularly unanimous in declaring that he saw everything that could possibly be construed to be bad. His rancorous disposition and intolerance toward everything which was inefficient, combined to make him the proper antidote for the maladministrators of Mexico. In his series of *informes,* or reports to the king, and in his instructions to the viceroys we have evidence of the thoroughness of his probings into political, economic, and social abuses. It must have been made apparent to the Madrid government, as

[16] There does not exist any work upon the nature and operation of the office of the visitor-general, nor even a chapter in any of the general histories which can be regarded as in any sense satisfactory. This whole subject must be worked up *de novo* from the sources. Occasionally, also, an ecclesiastical visitor-general was sent out to inspect the affairs of the church.

a result of these reports, that some drastic changes were necessary, and that an *audiencia* during a viceroy's incumbency and a *residencia* at the end of it were no longer guarantees of either an honest or an efficient rule. The demands for reforms which had been made timidly and infrequently by some of the preceding viceroys, and the earnest insistence for the same reforms now made in Spain by Campomanes and Jovellanos, fortified by the influence of Gálvez, resulted in a general attack all along the line. The decrees of 1765 and 1768 began the downfall of the Spanish mercantile system, and the great free-trade decree of 1778 revolutionized the trade relations between Spain and her colonies.[17]

The general statement that in modern times there has been a constant tendency of the work of civilized governments to become greater and more complicated is certainly applicable to Mexico in the eighteenth century. The evidence from the sources is conclusive that the viceroys in the days of Gálvez were overworked, and that their responsibilities were too numerous for any one man to bear.[18] The idea of the older and simpler days of the viceregal government, of the concentration of all forms of governmental activity in the hands of one chief executive, might do very well for a Philip II in the sixteenth century, or a Napoleon even in the nineteenth century, but was most certainly found wanting for the average viceroy who was trained in the

[17] It is a noteworthy fact that these first great reforms were directed against that system of commercial restrictions which had borne most severely on the economic development of the colonies. The exact history of the decree of October 12, 1778, has never been unravelled. There is reason to believe that Cevallos, in Buenos Aires, was the first provincial ruler to put in effect the provisions later embodied in this act. A clear, brief account of these commercial reforms is in De Lannoy and Vander Linden, pp. 389–403.

[18] Villarroel discusses the unnecessary demands upon the viceroy's time and strength in his *Enfermedades Políticas*, i, part ii, p. 23: "Las mas grave y pesada carga de los Señores Vireyes, la de gastar diariamente quatro ó seis horas en el Despacho de los Expedientes contenciosos, que la ponen de manifiesto los dos Secretarios de Gobierno, llebando regularmente puestos las Decretas, que ellos creen, que corresponden, reducidas á pase al Señor Fiscal . . . . y pase al Asesor." He urged that the *asesor general* be given the duty of first examining these despatches, and reducing them in numbers, so that when only the most important ones remained they be submitted to the viceroy himself.

camp, and found himself, past middle life, in a maze of administrative duties. The changes which were now soon to be introduced and which we must, from the point of view of the present, regard as the keynote of Spanish American administrative history on the eve of independence, were devised primarily to relieve the viceroy of his excessive official burdens, and incidentally to secure more immediate control, by the home government, of certain branches of the administration. It is easy for us to understand that the chief executive of New Spain, who was obliged to spend one-third of his time in holidays and ceremonies, and four hours of each working day in the drudgery of examining and signing despatches, could not keep a firm grip on all departments for which he was responsible.

The change which most profoundly affected the position of the viceroy, both in respect to his actual direction of the government in Mexico and to his relation to the king in Spain, was embodied in the Decree of the Intendants, of the year 1786. An intendant was originally a kind of provincial governor in France, under the old régime, and had been carried to Spain along with the Bourbon dynasty during the first quarter of the eighteenth century. The office had been suppressed in Spain in 1718, only to be revived in 1749, by a decree which formed the basis of the before-mentioned decree of 1786. It was reserved for Charles III to attempt to transplant this office, with certain modifications, to the colonies, and intendants were first heard of there in the year 1782, as playing a very significant part in the new government of the Rio de la Plata.[19] The trying of the intendants in the smallest and youngest of the viceroyalties may have been regarded as a sort of political laboratory experiment. Four years later they were brought to Mexico with the double purpose of relieving and regulating the viceroy.

[19] There is reason to believe that intendants were employed in Cuba even earlier than in Argentina.

It must be explained in this connection that previous to this time New Spain[20] had been divided into a number of provinces, in the main governed by *corregidores*, who were responsible directly to their immediate chief, the viceroy. Under these *corregidores* were the leading local magistrates, the *alcaldes mayores*, whose functions were mainly judicial. Now it so happened that in those famous *Noticias Secretas*, not to mention a large number of lesser known authorities on conditions in Spanish America, these *corregidores*, and of course to a certain extent their subordinate *alcaldes mayores*, received most of the blame. A *corregidor* was supposed to be, among other things, a kind of Indian commissioner with a large responsibility for the welfare of these wards of the Spanish nation, but the chance to make money out of their official position proved to be too alluring, so that they were singled out for an early sacrifice when the real reforms began. Evidently the first-hand personal investigation of the clear-sighted visitor-general officially confirmed what had long been common knowledge, and the effect of the new decree bringing in the intendants was to sweep out of existence all the *corregidores* and *alcaldes mayores* and to substitute for them governors with general executive and judicial duties, but chiefly designed to exercise complete control over provincial finances. Furthermore, these intendants,[21] as the new provincial governors were called, were to be almost entirely independent of the viceroy and, unlike the *corregidores*, were to report directly to a general superintendent of finances, *superintendente de real hacienda*, who was in turn directly subordinate to the king and the Council of the Indies.

[20] It is next to impossible to be consistent in the geographical nomenclature of Mexico. Throughout this thesis New Spain and Mexico are used synonymously, and as including the whole territory over which the viceroy ruled. Strictly speaking, the Spaniards meant by New Spain only the kernel, as it were, of what is now included in the Mexican Republic, and referred loosely to the districts outside of this kernel as New Galicia, New Biscay, and so forth. "El reino de México se llamaba Nueva España (estrictamente dicha) cuando se hablaba de él en contraposicion de la Nueva Galicia o la Nueva Viscaya o Nueva Leon u otro territorio semejante" (Rivera, i, 70).

[21] The introduction of the intendants was warmly resented by the viceroys, who could not but feel themselves deprived of one of their chief powers. See Revilla Gigedo, *Instrucción Reservada*, pp. 1–3.

Under this new régime, by the removal of the whole matter of finance from the viceroy's jurisdiction, there was also removed the chief temptation and opportunity for corruption, besides immensely relieving the conscientious viceroy from a state of being chronically overworked. A new council, officially termed the *junta general de real hacienda,* was established at the capital with the superintendent-general as its president. This new chief of the financial end of the government became, not an official subordinate to the viceroy, but a co-ordinate ruler over what was in some ways the most important branch of the government.

From the foregoing remarks it is apparent that the control of all financial matters was by this decree of the intendants taken from the viceroy, but such a bald statement gives no idea of the real loss of power involved in the transfer. The Spanish word *hacienda* signifies a great deal more than our word finance. It included not merely all revenues, but in many cases the sources of revenue as well, so that the king's property and the royal monopolies were henceforth to be administered by the intendants and not by the subordinates of the viceroy. From now on, Mexico was to be divided territorially into twelve intendancies, while the old *corregimientos,* districts ruled by *corregidores,* disappeared. In some cases this apparently simple dividing up of the country was complicated by the retention of the *corregidor* alongside of the intendant, or by having both offices held by one man, but that was an exceptional survival of the old state of things.[22]

To give some notion of the importance of the intendants under this new system, it is only necessary to mention the four grand departments, or *ramos,* over which they presided. The first one enumerated in the law defining the duties of the intendants was that all-important *causa de hacienda,* which has been defined above as the whole department of revenue and finance,

[22] It is as yet impossible to find anything like a satisfactory account of the intendants without going to the primary material. The most important single source is the text of the decree itself, though the comments of Bancroft and Villarroel are of some help. For the results in Argentina, consult Quesada.

in the most comprehensive sense. The second was the *causa de justicia,* or department of justice, which included within its limits all the lower courts, in the cities and small towns, in fact everything below the two supreme courts, or *audiencias,* at Mexico City and Guadalajara. The third was the *causa de guerra,* or war department, which must not be understood, however, to mean that the intendants were charged merely with what we would regard as the civil duties of recruiting and maintaining soldiers in time of peace, or of making only those preparations which would make field operations possible on the outbreak of war, but that they were also responsible, according to the new law, for the equipment, drill and discipline of all the troops, regular and militia, stationed in the intendancy. The fourth was the *causa de policía,* or general police, which was generously made to include not only policing the districts and preserving good morals, but also poor relief, repair of roads and fortifications, and innumerable similar duties.

The intendant was perhaps the perfect representation of all that must seem to us chaotic and amorphous in the Spanish method of governing men. He was presumed to be the expert financial officer of the crown, capable of understanding the problems of the incidence of taxation and the best method of tapping the public wealth. As a magistrate, he was empowered to issue administrative orders with the force of the law, and he was, of course, president of the council, or *ayuntamiento,* of his capital city. His judicial functions were considerable and he had both civil and criminal jurisdiction. In some cases he was authorized to sit with other judges in the hearing of suits in admiralty. On the military side, he was a sort of secretary of war on a small scale, and a line and staff officer as well. Nearly everything about his office seems to involve a contradiction, and possibly nothing more than the mixture of military and financial matters. Nevertheless, this was not peculiar to the intendants in Mexico. In Spain itself finance and war were very often regarded as a perfectly proper combination, so that there seemed nothing offensive to the Spanish mind in the commingling of these divers

functions.[23] In fact, the intendants of Spain were the models on which those of the New World were constructed, and a thorough trial of this officer had been carried on in Spain before his introduction to the colonies was attempted.

Enough has surely been said to indicate what a diminution of power the viceregal office suffered as a result of the establishment of the new intendant system, but, although this was the most important of the losses sustained by the viceroy, it was by no means all. An inroad was made even on his dignity as captain-general, so that this "primitive function," as Villarroel called it, did not escape the antagonism of Gálvez. There was during this period a loosening of the bonds which connected the viceroy with the military commanders on the frontiers, and the captain-general of Guatemala and the commandant-general of the Provincias Internas became rather less dependent in a military way on the great proconsul in Mexico. It is scarcely believable, in the light of all we know of three centuries of Spanish rule, that there should have come eventually such a separation of the civil and military in Spanish America as there is with the British in India. However, there were certainly some indications at this time that there was a beginning of such a splitting up of the various duties of the viceroy that there might have developed ultimately a viceroy and commander-in-chief in one person, with the chief civil duties in the hands of another.

The beginning of an attack on the viceroy's judicial functions was made by the creation of a new officer called the *regente*, who was to displace the viceroy as the presiding officer of the *audiencia*. This position, which was somewhat analogous to that of our Chief Justice of the Supreme Court, was complained of bitterly as an infringement of viceregal prerogatives, but it was retained just the same. Along the same line and indicating a similar tendency was the denying to the viceroys of the privilege of grant-

[23] For a clear and interesting summary of the relation of the various royal ministers and their portfolios to one another, there is nothing better in English than Addison, *Charles the Third of Spain*, pp. 104–110.

ing pensions and other rewards to any persons whatsoever. Some of these changes may seem of minor consequence, but their sum total was sufficient to modify in a very serious manner the character of the highest office in New Spain.

In other words, these reforms of Gálvez and Charles III set up a dual system of administration in place of a single, autocratic one, and in such a way that collusion between the two elements of that dual system to oppress the natives or defraud the home government was well nigh impossible. But even after all these serious reductions of the powers of the viceroy of Mexico, there still remained a residuum of authority which easily prevented his lapsing into a mere passive spectator of what was going on in his dominions. It would be a serious mistake to regard viceroys like Revilla Gigedo as a sort of southern counterpart of the governor-general of Canada, a political dignitary selected for his engaging personal qualities and expected to concern himself principally with the laying of corner-stones and reviewing of troops. The viceroy did indeed live in a palace and continued to be the victim of many elaborate ceremonials, but he remained to the last a hard-worked official, charged with the general responsibility for the good government of his people. In many ways his occupation had tended to become rather more supervisory and less actually administrative, but this result was almost certain to be brought about because of the growing difficulty and complexity of his functions. He was still charged with the highest military command, the exercise of the royal patronage in matters ecclesiastical, and he was still the highest civil officer in the country. Moreover, it was discovered after a few years' trial that the process of decentralization and division of responsibility had gone too far and the pendulum began to swing back. Before the end of the Spanish rule in Mexico, the viceroys had recovered a part of their control over the intendants and also the whole department of the *real hacienda,* but there were not enough years of peace left to them to give this second change a fair trial, and the fateful year 1810 began a new epoch of wars and revolutions.

Having concluded what is in the nature of an historical introduction, with a general survey of the main points in the government of New Spain, it may be well to state here what is attempted in the body of the thesis.

In the next chapter, dealing with the relations of the viceroy to the home government, an attempt will be made to exhibit the viceroy as the agent of the Spanish monarchy in the government of its American dependencies. To understand this, it will be necessary to describe very briefly the machinery of Spain's colonial administration and to point out the relation of the various officials, particularly the viceroy, to it and to one another.

In chapter III the viceroy will be studied *in situ*, but only in his capacity as governor. His relation to the executive, legislative, and judicial branches of the government, his appointing power and relation to the civil service, and the specific problems and acts of certain viceroys during the Gálvez period, will be dealt with.

In chapter IV the viceroy as captain-general will be treated after the same manner as in chapter III, except that this chapter concerns his military instead of his civil position. The organization of the military departments, the captain-general's staff, the number, character, and disposition of the armed forces, the fortified places, and so forth, will be described.

In chapter V, the viceroy as vice-patron will receive a somewhat less extended treatment than he is given in his capacities as governor or as captain-general, but the manner in which the viceroys managed to get along with the church in the eighteenth century, their relation to the prelates, the councils, and the inquisition will come in for some explanation.

Chapter VI, although entitled the reforms of Gálvez, will not only treat of the administrative changes initiated by that minister, but will also explain the duties of the superintendent-general of the *real hacienda*. As this office was held, except for a short time, by the viceroy, a description of the duties pertaining to it will show the position of the viceroy as the chief financial officer of the realm. As this is described rather minutely in the

law of 1786, creating the intendants, it seems advisable to make a somewhat extended analysis of that law. Also, as the other great piece of reform legislation of the period was the free-trade decree of 1778, that law, like the decree of the intendants, will be given careful examination.

CHAPTER II

THE RELATIONS OF THE VICEROY WITH THE HOME GOVERNMENT

Before the position of the viceroy, in any of its bearings, can be understood adequately, and particularly his position in reference to his superiors in Spain, it is necessary to get a general view of that complex body of administrative machinery of which he was so important a part. Like practically every other political institution, Spain's devices for governing her colonies were not suddenly created in one day in their complete form, but were the result of slow historical processes which added a bit here and there and which were still going on even after three hundred years of change and improvement.[1] It is doubtless true that Spain's colonial institutions were the result of too much *a priori* theorizing, rather than of experience, but that is a question for the student of political theory, and all that need be said in this connection is that these institutions were provided, one after an-

[1] The subject-matter of the first three or four pages of this chapter may be found discussed in a large number of secondary works. The best critical writings on the general question of the relationship of Spain to her American colonies, and consequently on the place of the viceroys, are those of the Mexican historians themselves. The leader of that school of historians that exalts the rule of the viceroys and looks back upon the latter half of the eighteenth century as the golden age of Mexican history was Lucas Alamán. In 1852, he wrote: "... no ha quedado, mas que la sombra de un nombre en otro tiempo ... ilustre." The leading representative of that other school of historians, which regarded independent Mexico as a sort of legitimate successor of the empire of Montezuma, was Carlos M. Bustamante. The writers of this school regarded the Spanish domination as a violent subversion of the rights of the natives and always seemed inclined to take a harsh view of the Spanish regime. The leading modern critic who fairly succeeded in avoiding these two extremes was Augustín Rivera. His *Princípios Críticos Sobre el Vireinato de la Nueva España*, in three volumes, is too philosophical, but it is interesting for its point of view.

other, as the exigencies of the case seemed to demand, and they were not extemporized as soon as the voyages of the first explorers and conquerors had given Spain colonies to rule over.

When the difficulties and novelty of the problems confronting them are considered, it would have been perhaps utterly unreasonable to expect the Spaniards to avoid most of the mistakes in government and their resultant evils. There were practically no historical precedents to guide the first European states in their handling of colonial questions, and it is easy to understand how Spain came to transplant her own political system, as it had been worked out in Europe, directly to her American dependencies with only those modifications which experience from time to time suggested. It is, however, remarkable that the newly acquired dependencies should have been given immediately and without a struggle the same constitutional position within the empire that was demanded in vain two hundred years later by the English colonies in North America.

Even during the lifetime of Columbus the necessity of providing for a permanent, civilized government, in contradistinction to fitting out exploring and military expeditions, was recognized by the Catholic kings, and various civil magistrates were sent to the West Indies, the first lands occupied by the Spaniards, to administer the law, to supervise the granting of lands to the European settlers, and to regulate the relations between these settlers and the natives. Theoretically, the king had absolute power in America even if such were not still the case in Spain, for there were no traditional checks on the royal power in the Indies such as had survived in Spain itself from the Middle Ages; but in the matter of actual administration neither such an international figure as Charles V, nor even such a born administrator as Philip II, could actually direct American affairs in detail. There arose immediately a need for a body of men who were experienced in American affairs, not only to advise the king but to take actual control of these new and little known dominions.[2] Such a com-

[2] Bancroft, *History of Central America*, i, 280–282, footnote.

mittee or council was legally constituted in the year 1524, after many years of experimenting with various makeshifts.

This Council of the Indies, or *Cónsejo de Indias*, has often been compared to the famous Council of Castile and referred to by writers as a kind of counterpart in American affairs of the older council in the affairs of Castile, but such a comparison is misleading.[3] The Council of the Indies had considerably greater authority within its own jurisdiction than any of the councils of Spain proper and was supreme, not only in civil and military affairs, but also in the domain of the church, excepting, of course, questions of faith. For the Kingdom of the Indies, which included all Spanish America and the Philippine Islands, it had authority to legislate on every subject with which a government could be concerned, and the only superior power was the king himself. All the laws in force in the colonies were not only prepared by this council but all the officers of any importance, who were to enforce these laws, were appointed by and responsible to this same council. The viceroys themselves, though standing in a position of peculiar dignity as the personal representatives of the king, were really creatures of the council and reported to it along with the other subordinate officials. The possibility of always appealing from the council to the king as a last resort was finally done away with in the eighteenth century, and by the royal decree of July 29, 1773, the decisions of the council were declared final.

Powerful and efficient as was this council, its eight members made it too large and unwieldly actually to superintend the viceroys and the other officials in America, and in consequence the chief mouthpiece of the home government in the later days of Spanish rule came to be the minister of the Indies. It is impossible in the space allotted here even to attempt an explanation of the Spanish cabinet system under the Bourbons, but from November, 1714, till well into the nineteenth century, there existed a ministry of the Indies.[4] It was usually combined with

[3] Desdevises du Dézert, ii, 95–102, 132–133.

[4] *Novísima Recopilación*, III, vi, 4.

the ministry of marine, in the hands of one person, though it was subject to numerous rearrangements in the course of the eighteenth century.[5] In 1787,[6] toward the very close of the Gálvez regime, Charles III divided the portfolio of the Indies between two officials, one to have the department of justice, and the other the departments of war and finance. This new arrangement had been in force only about three years when the government went back to the old basis, but the minister of the Indies, whether he held one or two cabinet offices, was, throughout the period here treated, in many ways the direct superior of the viceroys in America.

As would appear from what has been said above, appointments were made to the viceregal office by the king with the advice of the Council of the Indies. Such appointments were among the very highest at the disposal of the king and were exceeded in honor and profit by only a few positions in the government at Madrid. From the very first, it seems to have been a determined policy of the Spanish rulers to appoint only grandees and persons of the highest social ranks as viceroys in the new world. At home it was the policy of Charles V and Philip II to employ occasionally secretaries of humble birth in the central administration, but only the great nobles were appointed to high commands beyond the frontiers. This course was pursued even to the end of the eighteenth century.[7] Perhaps it would be inconsistent with Spanish notions of honor to have allowed the king to be represented by any but one of the bluest blood and of high military rank, but whatever the reason may have been, the viceroys of New Spain and of Peru were in the main aristocrats and soldiers. There seemed to be no place at the top of the American administration for a civil official who had begun in the lower grades and had worked his way by talent alone as high as the *audiencia*.

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[5] Rivera, I, pp. 75–80.

[6] *Novísima Recopilación*, III, vi, 12–15.

[7] Of all the viceroys, one only, Casafuerte, was a creole or of American birth. Contrast this with the English practice in North America, where four of the ten royal governors of Massachusetts were colonists; and this was typical.

Despite certain warnings directed against a viceroy's assuming too royal a style, there was a distinct encouragement of a certain magnificence in dress and public deportment, which might be regarded as becoming a representative of the Spanish king.[8] The viceroy was expected to live in a palace, surround himself with a bodyguard,[9] be received in his capital on his first arrival with considerable pomp, and in general demand for himself such an outward recognition of his place and dignity as would properly impress the king's subjects.

The head of the viceregal government was appointed for a term of three years, though as a matter of fact he served at the pleasure of the king and might be continued in office indefinitely. There were never cases of appointments for life as there were occasionally in British North America, but it was no uncommon thing for ill-health or too great an accumulation of responsibilities to force the viceroy to resign.[10] In spite of the unsurpassed climate of the Mexican plateau, hygienic conditions were generally bad. The pictures which Humboldt has given us of the various elements which were unfavorable to public health make it clear that though New Spain was no India, it was an excellent place for an overworked viceroy, past middle life, to break down. The elder Revilla Gigedo was in office for nine years, 1746 to 1755, but this was an unusually long term, and a number of his successors served only for a year or two. An average term for the eighteenth century would not be more than

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[8] " . . . . representen nuestra real persona, hagan y administren justicia igualmente á todos nuestros subdítos y vasallos, y entiendan en todo lo que conviene al sosiego, quietud, ennoblecimiento y pacifícación de aquellas provincias." Ley 1, tit. iii, lib. 3, Laws of the Indies.

[9] Revilla Gigedo, art. 533, after discussing the military honors due the viceroy, speaks of the bodyguard as follows: "La compañia de Alabarderos destinada para la guardia inmediata de los Vireyes, debe considerarse como el primer cuerpo de este Reino, así por el objeto de su instituto, como por su antiguedad, pues fué formada en el año de 1568, se compone un Capitan, un Subteniente, tres Cabos y veinte Alabarderos."

[10] In spite of the constant rivalry of the viceroy and the *audiencia*, political agitation was not as vigorous in Mexico as it was in New York or Massachusetts, and it was not possible to force a viceroy out of office by political pressure applied in the colony.

four years.[11] The fact that most of the viceroys either died in office or retired broken-down or discredited men, did not allow their position to be regarded as a stepping-stone to higher places at home, as some writers have implied. The colonial official who was most distinguished by his sovereign with titles and promotion, José de Gálvez, was never viceroy at all, and so can scarcely be taken as an exception to the rule just stated.

The salary of the viceroy of New Spain was intended to be high enough to raise him above the reach of the ordinary temptations to peculate, and the general tendency was for salaries to be increased with the progress of time. Toward the close of the period of Spanish rule the salary of the viceroy rose to sixty thousand pesos (perhaps $60,000), besides a number of perquisites and fees, varying with the royal pleasure, but always so considerable in amount as to secure to the holder a princely income. It can never be known how much this income from salary and fees combined was increased by dishonest officials through illicit means. There was always a general impression current that corrupt practices were both extensive and frequent. The law was intended to prevent all indirect profit by forbidding nepotism and the sale of favors of all kinds, and yet it cannot be believed that it always succeeded.[12] Humboldt certainly held the opinion that many of the viceroys made the most of their positions in a

[11] It is a general opinion that the English colonial governors had a very uncertain tenure of office, but their terms were long compared with those of the Spanish viceroys. According to Greene, *The Colonial Governor*, p. 51, "Massachusetts, during the eighty-two years, from 1692 to 1774, the period of the Province charter, had ten governors with an average term of eight years. North Carolina, during the thirty-four years of the royal government up to the passage of the Stamp Act, had only three governors with an average term of eleven years."

[12] In the matter of salary, the viceroy of New Spain was incomparably better off than the English colonial governors, and the annual income of Revilla Gigedo was something like six or eight times as great as that of the best paid of the governors of the North American colonies. The governor of Virginia, just before the revolution, received £2000 sterling, and some fees besides, but in the other colonies, the average was no higher than £1000 sterling. Moreover, in all but four of our American colonies the governors' salaries were not on a fixed basis, but were dependent on the good will of the assemblies. Greene, pp. 59–64.

financial way,[13] in spite of all the safeguards with which the home government sought to surround their office, and in this opinion many of the most intelligent contemporaries concurred.[14] However, an examination of the means employed by the Spanish government to control their agents in America shows the way to an understanding of the means actually employed in the efforts to keep the viceroys honest and efficient, and likewise shows to what extent these measures were successful.

The control which the home government exercised over the rulers of the American provinces, whether viceroys, captains-general, or governors, was accomplished in a great variety of ways. On the one hand, it was direct, since it was brought to bear upon the colonial rulers during the time they actually held office, and on the other hand was indirect, in that penalties were provided for offending officers when they had concluded their term of office. The direct control was effected by means of orders and despatches in the form of royal decrees sent to the viceroy from the Council of the Indies or the Minister of the Indies at Madrid. This was also supplemented through the action of the co-ordinate officials in Mexico, who could act independently and even in opposition to the viceroy himself. The indirect control, which was to be secured by the punishing of a corrupt magistrate at the close of his term of office, was accomplished through the *residencia,* referred to in chapter I. A brief consideration of these three features of the viceroy's relation to the home government will now be given in the above order.

In trying to decide upon the nature and effectiveness of the direct control maintained over the viceroy by the Madrid government, the investigator is puzzled by two opposing considera-

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[13] Although it is impossible to know with any exactness how much was stolen directly or indirectly by the Spanish pro-consuls of New Spain, it may be interesting to cite some opinions. Desdevises du Dézert, ii, 132 and 133, following Humboldt, takes a very pessimistic view: "There were some very avaricious, and some were veritable pillagers. One is said to have stolen eight million livres in a few years." Bancroft, *Mexico,* iii, 537–538, shows how the viceroys could add to their fixed income.

[14] Allowing for considerable corruption under the Spanish system, it does not look so bad when compared with what went on under the English rule. For an introduction to this subject, see Greene, pp. 46–48.

tions. There is no doubt that a great number of orders and instructions, of the most detailed character, were sent from Spain to Mexico every year. It is equally certain that the widest latitude was allowed to the viceroys in the matter of their obedience to these instructions, or at least in the matter of deciding when they should be put into operation and how they should be interpreted. In the language of the Laws of the Indies, the viceroys were:[15] " . . . . in all the matters and business that came before them to do what seemed to them right, and carry out everything which We would be able to carry out and perform, of whatever quality and condition it may be, in the provinces under their rule, and they are to govern for our royal person, in all things where there is not a special prohibition." It was generally conceded that a viceroy had wide discretion in the matter of enforcing these royal orders and the famous saying, "I obey but do not execute," (*obedezco pero no cumplo*) is always remembered as one of the characteristic anomolies of the Spanish colonial administration. While it is difficult to decide at times which was the more likely to prevail, the detailed and reiterated commands from Spain or the procrastinations and evasions of the vice-kings in America, it is safe to say that by the middle of the eighteenth century the tendency was all in favor of the former.[16] The establishment of a regular line of

[15] " . . . . en todas las cosas y negocios que se ofrecieren, hagan lo que les parecieren y vieren que conviene, y provean todo aquello que Nos podríamos hacer proveer, de cualquiera calidad y condición que sea, en las provincias de su cargo, si por nuestra persona se gobernaran, en lo que no tuvieren especial prohibición."

[16] Desdevises du Dézert, ii. 126–138, implies throughout that the viceroys were practically free from anything like direct control on the part of their sovereigns, and in one place (p. 127) he makes this strangely inaccurate statement: "The great viceroyalties of the Indies were veritable satrapies on the oriental order, with the only difference that the viceroys were never kept in office longer than six years at most." There are two difficulties with this statement that are almost too obvious to deserve special notice, and only the reputation and general excellence of Professor Desdevises du Dézert makes such notice justifiable. The American viceroyalties were not satrapies except for purposes of rhetoric; and six years was not the superior limit of the viceroy's tenure of office. In the latter half of this chapter I have shown by a large number of cases taken direct from the correspondence of the viceroys of New Spain with their home government, to what an astonishing degree they were supervised and dictated to by their superiors in Spain.

packet-boats between Europe and America and the general improvement of the means of communication between Vera Cruz and Cádiz in regard both to speed and safety, combined to increase the likelihood of the crown's wishes being carried out. When in addition to this there was occasionally present in New Spain a visitor-general, the colonial official became less independent and the Council of the Indies better assured that its decrees were being obeyed.

The second form of direct control, that by means of independent colleagues, was from the earliest days performed by the *audiencia*, a combination of supreme court and governor's council. The Laws of the Indies prescribed with great exactness the organization, honors, fees, exemptions, and jurisdiction of this exalted body, which eventually came to be invested with sufficient powers and privileges fairly to rival the viceroy. The first *audiencia* in the New World was that of San Domingo, created before there was such a thing as a viceroy in America, but as an institution the *audiencia* became most interesting when it reached its highest development on the mainland at a much later date. The relation of the *audiencia* to the administration of justice will be treated in chapter III, but in this connection it is viewed solely as one of the means of limiting the power of the viceroy and helping the king to keep him in a place of proper subordination.

Though the Mexican *audiencia* was, like the American provincial legislature, a check upon the colonial governor, it must not be thought of as a legislative body in any proper sense whatsoever. From the time of its establishment in New Spain in the year 1528, till it went down in the general ruin of the Spanish domination in the first quarter of the nineteenth century, it had been a judicial and advisory body.[17] Legislation, strictly speaking, did not exist in the Spanish colonies at all, and all laws were issued in the name of the king by the Council of the Indies. The nearest approach to lawmaking in New Spain was the issuing of proclamations, or *bandos*, by the viceroys.

[17] Moses, *Spanish Rule in America*, chap. iv, *passim*.

The decisions of the *audiencia,* generally known as *autos acordados,* were not even ordinances, but merely court decisions which would be followed as precedents by the other courts of the viceroyalty until they were reversed. This power of rendering judicial decisions was the most distinctive government characteristic of the *audiencia* and suggests another comparison with English colonial institutions. Among the English colonies in America the governor's council was not only what the term indicates, a body of advisors to the colonial executive, but was in addition a kind of court of appeals and upper house of the legislature.[18] The Mexican *audiencia* was primarily a supreme court with appellate jurisdiction, and its functions as an advisory board to check and assist the governor were of secondary importance.[19] Though the *audiencia* might communicate independently with the government in Spain and might express its views unhindered in regard to all branches of the administration, it was concerned, in the main, with the general direction of the department of justice.[20] When the *audiencia* was acting as a council of state, its advice was not obligatory on the viceroy except in a small number of cases. It was naturally assumed, however, that the chief executive took upon himself a rather serious responsibility when he acted contrary to the advice of his council. If he followed his own independent course he might be able to find ample means for justifying it before the Council of the Indies, but such a burden of proof would tend to discourage hasty or ill-considered action.

The most effective way at the disposal of the crown of limiting the power of the viceroy was secured through the office of the *visitador-general.* Though this means was used only inter-

[18] Greene, pp. 23–31 and 72–90.

[19] In 1755, the elder Revilla Gigedo in his instructions to his successor declared that the audience of Mexico had for its object: " . . . conocer de todas las causas, ya sea de las que por caso de corte, privilegio ú otro motivo se radican en primera instancia ó ya sea de las que suben por apelacion de los jueces de provincia y de todos los ordinarios, y aun del Virey en puntos de justicia contenciosos entre partes, sin mas recurso en las que determina, que el de la segunda suplicacion al Real y Supremo Consejo de las Indias." Quoted by Rivera, i, 81, footnote.

[20] Desdevises du Dézert, ii, 149–151.

mittently and so, unlike the *audiencia*, did not bring to bear a constant pressure, it was much more thoroughgoing while it lasted. This is referred to in chapter I, where a few words are devoted to the mission of José de Gálvez and his reforms, but it must be alluded to again in this connection.[21] The visitor-general was usually given the fullest possible powers and was hampered by the fewest possible restrictions. As his work was bound to conflict more or less with that of the regularly constituted authorities and as he was intended and expected to criticize and investigate, it was unavoidable that he should create antagonism which would prevent any danger of his abusing his powers in the direction of independence from the mother country. Though he owed a duty to the Mexican commonwealth like any other officer employed there, he was more keenly alive to his responsibilities at home, whither he was soon to return and where he could expect the only reward for his services. It was apparent that such an office in the hands of a strong man must lead to large results and it so happened that the most important administrative changes in Mexico during the reign of Charles III were accomplished by the visitor-general. Subject to no interference from an *audiencia* and indifferent to public opinion, the visitor-general had a tremendous advantage over the viceroy and was able with unfettered hands to inaugurate a number of changes and reforms utterly beyond the power of the ablest and most honest viceroy.

In some ways the appointment of such a visitor-general as Gálvez was like suspending the viceregal office. At the very least it caused a temporary diminution of authority in that office, which showed how effective an agent of imperial control the visitor-general might be. The attitude of the viceroys was not that of approbation, and the following quotation from a letter of Bucareli to his brother reflects some typical contemporary opinion.[22] "No one can deny that the visitor-general had worked hard, and that he was not lacking in zeal for the service,

[21] Bancroft, *History of Mexico*, iii, 367–368.

[22] Desdevises du Dézert, ii, 133, footnote.

or in ability. But he also had his faults; his friends were always right, his adversaries were always mistaken, he never pardoned an injury, and often in seeking a way to get even, did harm to a great many good servants of the king." After the first irreconcilable break with the Viceroy Cruillas, things went rather smoothly, because the succeeding viceroys gave up the attempt to maintain an opposition. The specific reforms introduced by Gálvez will be the subject of chapter VI, but it is hoped enough has been said here to indicate the importance of the visitor-general as an instrument of the crown in preventing the viceroys of New Spain from becoming satraps in the meaning of Desdevises du Dézert.

The great indirect check on the viceroy to which the home government had recourse, aside from actually divesting him of his office before the normal expiration of his term, was the *residencia*.[23] This judicial inquiry into the various acts performed by an outgoing official was not limited to the viceroy, but was applicable to any of the higher civil officers. It had always been an unpopular institution, and by the time of Charles III had likewise come to be recognized as ill-adapted to the purposes for which it had originally been designed. It was expensive and vexatious, and owing to the possibility of collusion between the official under examination and those who were his examiners, had fallen into general discredit. In the *Noticias Secretas*,[24] there is an interesting and almost humorous account of the way *residencias* were conducted in Peru, just before the middle of the eighteenth century. Unless the viceroy or corregidor had offended some person of influence or antagonized some powerful interests, he was practically sure of a vindication as a result of the once dreaded *residencia*. The much-quoted statement of Humboldt is of direct interest on this point. "If the viceroy is rich," he said, "adroit, supported in America by a courageous *asesor* and at Madrid by powerful friends, he can

[23] Bancroft, *History of Central America*, i, 250–251 and footnote.

[24] Juan y Ulloa, *Noticias Secretas*, p. 255 *et seq.*

govern arbitrarily without ever fearing the *residencia.*"[25] It cannot be a matter of surprise that the viceroys themselves were violently prejudiced against so costly and vexatious a proceeding, and one which might easily be made the means of petty persecutions against even the most upright official. The younger Revilla Gigedo expressly condemned the *residencia* as it was employed in New Spain against the intendants as well as the viceroys. His language on this subject was as follows: "The *residencias* have been considered as a means of avoiding disorders in the administration of justice, as a restraint upon the judges; but experience certainly proves how little progress is made by this means, which as a rule is the more burdensome to the good servants of the King, as it obliges them to go to an expense which they cannot support, especially in the case of the subdelegates, for whom judges of the *residencia* are appointed by the Council, which usually leads to great delays and throws obstacles in the service of the King."[26] However, when the *residencia* was abolished in 1799 so far as subordinate officials were concerned, it was retained for the viceroys, and this may be taken as evidence that the home government believed in the value of a final accounting when a viceroy surrendered his office.

In a general way the measures have been made clear whereby the mother country kept a restraining hand upon the chiefs of the distant American viceroyalties. It is now perhaps in order to discuss certain relations of the viceroy to the king, which have a bearing upon imperial questions. Obviously there was a great number of purely local matters in New Spain which were left almost entirely to the viceroy, and which could not in the nature

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[25] Humboldt, *Political Essay on New Spain*, ii, 244.

[26] "Las residencias se han considerado como un medio de evitar desórdenes en la administracion de justicia, conteniendo á los Jueces; pero lo cierto es que la experiencia acredita cuán poco se adelanta por este medio, mas gravoso por lo regular en los buenos servidores del Rey, á quienes obliga á un gasto que no pueden soportar, especialmente los subdelegados, á los cuales se deben nombrar los Jueces de residencia por el Consejo, lo que suele tambien retardarse y quedar impedidos en el servicio del Rey." Revilla Gigedo, art. 140.

"La residencia es un gravámen de la mayor consideracion . . . ." Revilla Gigedo, art. 864.

of things be understood or provided for even by the most zealous bureaucrat in Madrid. There were at the other extreme many general problems touching more or less directly the interests of Mexico, which nevertheless had to be regarded as of such peculiar concern to the mother country that the viceroy was given no part in determining their policy. Between these extremes there was another large sphere of governmental activity in which the mother country was interested enough to interfere occasionally, though on the other hand, she was willing to listen to the viceroy's advice and, in a large number of instances, trust to his judgment. The first and last of these categories will be discussed at length in the following chapters, but the second, that relating to what may be called imperial interests, belongs undoubtedly here.

One of the most immediate of all imperial concerns was that which dealt with foreign affairs and the protection of the colonies against the ambitions, commercial or territorial, of rival states. Complementary to this was the necessity of advancing the Spanish frontiers whenever possible, and the anticipating of other nations in the conquering and exploiting of desirable territory. In the nature of things, a European nation could not rely upon its colonial governors to decide such questions, but the Spanish viceroys were time and again most important agents in carrying out these policies and furnishing information to the Spanish statesmen in Europe as to ways and means of putting a given policy into operation.

In the latter half of the eighteenth century the Spaniards were content to maintain a *status quo* on the continent of North America, and whatever advances were made in the way of territorial expansion were defensive in their object. In two famous instances, territorial acquisitions were forced upon Spain by the necessity, real or fancied, of protecting the dominions she already possessed. Louisiana was forced upon Spain by the exigencies of European diplomacy, and was acceptable only because it could not be allowed to fall into the hands of a hostile power like England, not because of its intrinsic worth. Similar considera-

tions also forced the Spaniards in the days of Viceroy de Croix to forestall the Russians in the possession of California. In all these measures New Spain was the necessary base of operations and the Spanish imperial policy found in the viceroy its proper and necessary agent. Much of the time of Bucareli, successor of de Croix, was taken up in the administration of the frontier province of Upper California, a matter of purely imperial interest.[27] Without multiplying examples any further, it may be said that the viceroys of New Spain, like the English viceroys of India at the present day, were constantly embarrassed with questions of international politics. This is constantly impressed upon one who studies the primary material of the period, though the best illustrations are to be found in the instructions which the younger Revilla Gigedo and Branciforte left to their successors.

It was as captain-general that the viceroy came into closest relation to Spain's continental projects. As the military and naval representative of the king, he was called upon to coöperate in plans of imperial defense and not merely devote himself to the repelling of attacks upon New Spain proper. He might be called upon at any time to send aid in men and money to such neighboring provinces as Louisiana, the Floridas, or any of the islands of the Antilles. Even the distant Philippines had to be provided for against foreign attack, and in that case it fell to the viceroy of New Spain to supply and organize the necessary

[27] The vast amount of manuscript correspondence between Bucareli and Neve, in the California provincial archives, indicates something of the additional responsibility that the occupation of this province brought. "La vecindad de los rusos podria acaso con el tiempo sernos mas perjudicial que la de los ingleses ú otras naciones europeas, cuyas disposiciones y auxilios debian ser mucho más tardos y muy difícil que nos perjudicasen. Yo he sido siempre de opinion, y he propuesto á la Corte, que lo conveniente era reducir nuestros limites hasta el Estrecho da Juan de Fuca, que parece ser un término de demarcacion señalado por la misma naturaleza: y seria lo mas feliz para nuestra nacion el que quedase un término que á nadie perteneciese y que contuviese el comercio clandestino y motivos de disensiones, que es lo que hay más que temer. . . . Revilla Gigedo, art. 713.

Though the viceroys at times found their duties greatly increased, through the government of the Provincias Internas, they were anxious to retain their full authority over them. Branciforte to Paz, August 29, 1796.

supplies, ships, and men. One of the chief reasons for the creation of the new viceroyalty of the Rio de la Plata, in 1777,[28] was the protection of that part of the Spanish dominions against the Portuguese who were pressing southward from Brazil. It was not at all unusual for the home government to direct even in great detail all of these expeditions, but in every case the viceroy was the pivot upon which everything turned. These military operations often necessitated the coöperation of contiguous, independent provinces, but when this occurred the viceroys still constituted the main part of the machinery by which affairs were managed. In many ways, the best illustrations for the above statements are to be found in the history of the La Plata country where the viceroy was not only *vis-à-vis* to the hostile Portuguese establishment, but had in addition a special difficulty with the English over the Falkland Islands.[29]

The policy pursued by the Spanish government toward the native races is one of the best known as well as one of the most interesting features of its rule in America, and it was in this connection that the viceroy had the most difficult task as the intermediary between the king and his Indian subjects. In these matters the home government seemed to prescribe everything, but held the viceroys responsible for everything. From the very first, it had been recognized in Spain that paternal legislation, throwing various safeguards around the aborigines, was not adequate for their protection. In order that the natives might not be abused by leaving the enforcement of these laws in the hands of the regular officials, whose interests rarely coincided with philanthropic intentions in Madrid, a body of special officers called *corregidores* was sent out to look after the Indians. These

[28] This date has been somewhat in dispute, but the *real cédula* granting the commission as viceroy to Cevallos, bears the date of August 1, 1777. See Quesada, *Vireinato del Rio de la Plata*, p. 115.

[29] The royal order of June 26, 1780, directed to Viceroy Vertiz, is a good document to illustrate not only Spanish policy in South America, but the relationship between a viceroy and the crown. It contains instructions to Vertiz regarding the conduct he should pursue in regard to the Falkland Islands, warning him of the designs of the Court of St. James upon the Straits of Magellan, and the South Atlantic coast of South America. Printed in Quesada, pp. 168–169.

corregidores became in effect Indian commissioners, while the viceroys to whom they were responsible were in a position similar to that of the royal superintendent of Indian affairs in British North America.[30] The Indians were politically entirely subordinate to the king's representative, though their caciques were recognized. However, there was no place in the Spanish system for any great native states such as had been allowed to survive and still exist in British India.[31] On the other hand, the viceroys were especially enjoined to protect the natives from forced labor and other forms of economic serviture. Whatever evasions of these laws occurred, there did not develop anything approaching the rigid and oppressive agricultural system that grew up under the Dutch in Java. The viceroys of New Spain had no opportunity of formulating, still less of putting into effect, any policy of their own dealing with the Indians. The policy of keeping the Europeans and the natives apart had been adopted early by the Spaniard and had been persevered in to the very last, so that in this matter also the viceroys were left no discretion and were powerless to alter these traditions of government. The natives were made to pay their share in the financial support of the *real hacienda* by a special tax called the *tributo*. The assessment and collection of this tax was watched over most carefully by the Council of the Indies, as it was evidently felt that if such matters were left to the colonial officials there would be special danger of corruption and abuse. The absence of semi-independent states as in British India, and the desire of the Spanish kings to avoid the half-servile conditions which prevailed in the period just after the conquest and which became a regular characteristic of the Dutch rule in Java, left no alternative but a land or capitation

[30] It is interesting to point out that the royal superintendent of Indian affairs was one of the extraordinary members, so called, of the governor's council in the English colonies. Greene, p. 78. There was a general tendency to abridge the power of the governor by the assembly, so that by the time of the Revolution, Indian affairs were managed either by royal agents directly, or by committees of the assemblies.

[31] The absence of large native states relieved the viceroy of anything like diplomatic duties and prevented the natives having in their possession a nucleus for a possible revolt.

tax.[32] The latter was adopted as affording a system which caused a maximum of revenue with a minimum of commingling of Europeans and natives. The idea of keeping the white man and the native apart was one of the peculiarities of the Spanish method of protecting the latter. It never seemed to be an object with the crown to build up in America a great Spanish community with as much Spanish blood and as little adulteration as possible. On the contrary, no pains were spared to make immigration from the peninsula extremely difficult. It seemed as if it were the desire of the king to limit the white population in America to the comparatively few persons needed to carry on the government, to defend the country against foreign invasion, and direct the exploitation of the mines.

As a part of its policy toward the native races, though at first seeming to have no bearing upon it, the African slave trade must be considered.[33] One reason why the Spaniards were able to avoid either the enslavement of the Indians or their subjection to a forced culture system and yet secure a sufficient quantity of fairly efficient labor, was the establishment of negro slavery. New Spain was not a densely settled country where population was likely to outrun food supply, so that recourse might easily be had, as the conditions of the labor market seemed to justify, to bringing in laborers from abroad. Originally, however, the African slave trade was turned in the direction of America as the only possible means of saving the Indians from extermination. In carrying out this policy, which was

[32] The two books which best enable the English reader to understand the two most interesting parallel colonial administrations, are General Sir George Chesney, *Indian Polity*, and Clive Day, *Policy and Administration of the Dutch in Java*. Chapter 7 of Mr. Day's book gives a clear outline of the culture system as it worked in Java, while chaps. 8 and 9 show the political features of the administration and the final reforms. The worst side of the Spanish system is of course found in the *Noticias Secretas*, *passim*.

[33] The general question of negro slavery in Spanish America and its effect upon the native races has been discussed in the general works of Saco and Sir Arthur Helps, but its diplomatic and international aspects have only recently (1906) been treated by G. Scelle. The policy of the home government in regard to the slave trade is here treated very fully, and the "asiento treaty," or provision of the Treaty of Utrecht, is shown in its proper relations for the first time.

inaugurated back in the days of Las Casas, the viceroys of Mexico had a comparatively small part. The slave trade was strictly regulated from Madrid, either by treaty with a foreign nation, as with England by the Treaty of Utrecht, or by chartered companies, as was done for a while after the famous *asiento* had ceased to be in effect. In such matters, then, the viceroy could do little more than execute the orders sent him, like any subordinate official. He was expected to make provision for the receiving and distributing of the slaves and for enforcing the laws protecting them and regulating the institution of chattel slavery.

One of the most interesting things about the viceroy of New Spain was his relation to the Mexican civil service. The interest, however, is quite as keen with regard to what he did not do as to what he actually did. In one sense, there was no permanent civil service in Mexico where a man might begin in the lower ranks and have a reasonable hope of promotion to a place near the top, as the result of long and faithful service. All the important offices, civil, military, and ecclesiastical, were filled by appointees of the Council of the Indies and confirmed by the king. The few exceptions were some minor positions filled by the viceroy, such as a number of the *alcaldes mayores,* and a few municipal offices which were elective. A rather large number of clerical positions and commissions in the militia were also saleable, being sold at auction in the City of Mexico. Furthermore, it was a general rule to give preference whenever possible to the descendants of the early conquerors. The *ad interim* appointments which the viceroy might make were numerous, but even these were hedged about with innumerable restrictions to prevent favoritism.[34] His real influence in determining the personnel of his large official family could be exerted only by recommendations to Madrid, and the weight of these recommendations varied with the influence and personality of the viceroy

[34] Bancroft, *History of Mexico,* iii, chap. 27, 517–551.

as well as with the character of the persons who dominated the king at home.[35]

In order to obtain a definite idea of the real extent of the dependence of the viceroy on the home government, it is necessary to exhibit in some detail the correspondence between them; to study certain cases in which the Council of the Indies insisted upon having its own way; and to discover the manner in which such cases were actually decided. The treatment of this aspect of the Spanish colonial system in the following pages is by no means exhaustive, but the typical cases presented will show, it is believed, the trend of the policy in this regard and make clear the nature of the control which Charles III retained over his most important agent in the New World. The point of view of the Council of the Indies can be observed by an examination of the *cédulas* and other communications sent to the viceroys. The opinions of the latter regarding these same *cédulas* is to be found mainly in the *instrucciones* which they left to their successors.[36] These instructions, written by the viceroys for the information of those sent out to take their places, are especially valuable because they go further than a mere statement of the law, and explain, with varying degrees of elaboration, how the laws worked and in what ways they were good or bad in their operations. The specific questions, then, which will be taken up in the following pages are those which are found discussed in the viceregal *instrucciones* and are therefore presumably matters of more than ordinary concern to the viceroys and to the Spanish government. They are taken principally from the *instrucción reservada* of Revilla Gigedo, the younger.

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[35] Revilla Gigedo, art. 2, complains of the viceroy's inability in this regard. The viceroy could not, he said, "grant any distinction, and thus has no other means of granting rewards and favors, than of making recommendations of them to the sovereign." Further on he adds, "the Viceroy should have more choice in the matter of rewards and punishments, in order that he might make himself obeyed and respected as is desirable."

[36] This writing of an *instrucción* had been made obligatory by the Laws of the Indies, and reenforced by royal order of August 23, 1751. The import of these laws is thus given by Revilla Gigedo, art. 2: "By the two royal orders the viceroy is commanded, on finishing his term, to instruct his successor regarding the most essential things which have taken place during his rule, concerning what he had done and what remained to be done, giving his opinion on all of these points."

The first illustration of the method of settling questions of state between the viceroys and the home government is the very important dispute as to who was to govern the viceroyalty during the interregnum between the death of one viceroy and the arrival of his successor. It had always been the law that the government at such a time should fall into the hands of the *audiencia,* at any rate in cases wherein no special provision had been made by the king for the chief command to be assumed by some one designated in a *pliego de providencia,* or sealed commission. These provisions seemed clear enough, but they had not succeeded in eliminating unseemly dissensions on the death of the ruler of New Spain, so that a special order, March 8, 1785, was thought necessary. According to this order there should henceforth always be a *pliego de providencia,* but if by any unforeseen accident one should be wanting, the command of the troops should be exercised by the civil authorities, in this case the *audiencia.*[37] This arrangement seemed unwise to the younger Revilla Gigedo, and accordingly he submitted his views to the two ministers of the Indies, January 8, 1790, stating that the *audiencia* was not a proper institution to possess the military command and that its administration "would be exercised with much less exactitude and intelligence." He did not think that the *audiencia* could understand the evils that might result from such an interference in military affairs by a civilian, and that the utmost confusion might be brought into the military government of the realm.[38] Revilla Gigedo suggested further that some military officer should be given the duties of captain-general at such a time,[39] and that a short period it would not be only safe but in every way highly desirable that the civil and military functions be kept separate [illegible] often done in Spain.[40] After this representation [illegible] been sent to the

[37] Revilla Gigedo, art. 516: " . . . . prevenia que para evitar disputas en adelante sobre sucesion al mando, se tuviesen siempre anticipados pliegos de providencia, y que cuando en un imprevisto accidente no los hubiese, mandase las armas el mismo que debia mandar el Reino."

[38] Revilla Gigedo, art. 517.

[39] *Ibid.,* art. 518.

[40] *Ibid.,* art. 519.

king, Revilla Gigedo received a royal *cédula*, dated the second of the preceding August, dealing with this same matter of the succession, but leaving it substantially on the same footing as it had been before. Unconvinced by this second *cédula*, the viceroy wrote an additional memorandum to the crown, setting forth the extreme disadvantage of allowing a body of aged lawyers and ecclesiastics to have charge of so large a military force as that of New Spain.[41] Receiving no answer to these representations, he sent still another, June 29, 1793, stating that no response had been received, but as no reply came within the next year, the matter was regarded as settled and on the old basis.[42]

It is evident from the above brief statement of facts that the viceroys felt free to state their views with great frankness, even when they seemed to be in direct opposition to the will of the sovereign, or of those who were intrusted by him with the chief offices of state. This incident also shows how the most insistent statement of the views of a viceroy could be pigeon-holed and not even given the outward consideration of an answer. Furthermore, the length of time consumed in correspondence of such importance as that just considered made quick decisions impossible and explained a great deal of the dilatoriness everywhere observable in the Spanish administration. From the time of the first communication of Revilla Gigedo, January, 1790, till the last one of June, 1793, over three years were taken up in the exchange of views, and this proceeding was not exceptionally slow. If a viceroy remained in office on an average of five years, it is evident that not a great deal could be accomplished where much correspondence with Madrid was necessary.

That the king of Spain did not hand over full powers in all things military to his captains-general and simply judge them

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[41] Revilla Gigedo, art. 521. He did not think that the *mando militar* could be well administered, "por los decanos y regentes, así porque sus conocimientos y carrera eran distintos, como porque la avanzada edad y achaques con se hallaban por lo regular los sujetos que obtienen estos empleos en todas las Audiencias de México no les permitiria atender al mando vastisimo de las armas, particularmente en este Reino en que habia un ejército de alguna consideracion."

[42] *Ibid.*, art. 522.

by results, is evidenced by the interference in the following matters of minor importance. November 30, 1789, Revilla Gigedo proposed the formation of an additional company of artillery, to use a Spanish phrase, and showed the evils of having the only artillerymen of New Spain kept in garrison at the fortified ports of Acapulco and Vera Cruz.[43] It was desired to have an extra company available for miscellaneous duties, wherever and whenever the occasion for their use might arise. This proposal of the viceroy was approved by the royal order of August 3, 1790, and by February 1, 1791, the levy was completed and the first review held. By the royal order of March 23, 1792, the company was ordered to continue on the same footing as that upon which it was formed; but when the viceroy asked, in a letter of July 30, 1792, that the company be stationed in the City of Mexico, there was no reply forthcoming. This seems a lame and impotent conclusion after such an exchange of despatches, but it shows the glaring inefficiency of the Madrid government in the days of Godoy.

About the same time Revilla Gigedo reduced the pay of a company of one hundred and five men, eight *reales* a month, with the object of making uniform the pay of all men of equal length of service.[44] The king on being informed of this refused to approve such a diminution in pay.[45] The sub-inspector-general of New Spain thereupon prepared a report, supporting the viceroy's action and the latter again submitted the whole matter to the king, pointing out what grave inconveniences would result if the pay were not reduced. The desired consent of the crown was finally obtained, August 7, 1792. Again and again the viceroy is found referring similar questions of detail to the home government for decision, and there is nothing to indicate a tendency to leave such matters more and more to the colonial authorities.[46] The fortifications of Vera Cruz were equipped with both iron and brass cannon, and Revilla Gigedo reported to Madrid that, on account of climatic conditions, iron deteriorated very

[43] Revilla Gigedo, art. 545 and 546.

[44] *Ibid.*, art. 555.

[45] *Ibid.*, art. 556.

[46] *Ibid.*, art. 559.

rapidly so that in such places only brass ordonnance should be used.[47] Accordingly, the royal order of April 16, 1792, brought the reply, not as one would expect, authorizing the viceroy to use his judgment in the whole matter, but instead telling him with great care to see that the guns made of iron be covered up and protected from the elements, and wait for a favorable turn of circumstances to substitute the brass variety altogether.[48]

In matters of dispute between Spain and the neighboring provinces it was a very natural thing to appeal to the common master in Europe; so there can be no surprise over the interference by the home government in the controversy between Mexico and the various West India Islands over the question of the *situados*. In the latter years of the reign of Charles III, the subsidies paid by Mexico to the neighboring provinces around the Gulf and the Carribean took up a large part of her surplus revenues, and the viceroys demanded that an accounting for these sums should be made to the Mexican treasury. After some misunderstanding and delays, a royal order of the year 1784 was sent to the governors of Porto Rico and San Domingo, and to the intendants of Havana and Louisiana, commanding them to make a formal and detailed report to Mexico of what they had done with these subsidies. This order further authorized a stoppage of payment in any given year if the report of the preceding year were not received. This was clearly a decision in favor of Mexico, and Revilla Gigedo welcomed it as a means of diminishing this regular demand on the treasury of his viceroyalty. He stated to his successor, Branciforte, that it would be better to apply this money to internal improvements within their own jurisdiction, or even increase their remittances to Spain, than to go on sending such large sums to the islands.[49]

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[47] Revilla Gigedo, art. 697.

[48] *Ibid.*, "Recibí contestacion en Real Orden de Abril de 92, previniéndome S. M. que conservase la artillería de fierro que habia en aquel puerto, procurrando tenerla embreada y precavida en el mejor modo, interin se podia reemplazar en el todo ó en parte, segun lo permitiesen las circunstancias y urgencias de otras plazas."

[49] Revilla Gigedo, art. 796.

The reforming spirit which was so strong in Spain during the reign of Charles III, attacking every conceivable abuse and seeking out every possible means for industrial and economic reforms, could not be indifferent to similar projects in the colonies. The same motives that led Olavide to attempt the repeopling of the Sierra Morena with Swiss and Bavarians, induced the sending of Saxon miners to improve the methods of working the Mexican mines. Humboldt and Bancroft have shown the value of the mines of New Spain as a source of revenue and have discussed the subject in all its economic aspects, but the best of the secondary historians have failed to realize the connection between these reforms in Mexico and their originals in Spain. The royal order, dated January 1, 1791, called for information regarding the progress of these German workmen and the results that might be expected of them for the mining industry.[50] There may have been evil effects from this excessive descending into the minutiae of provincial administration on the part of the crown, but if it was despotism it was at least benevolent and identical with what Frederick of Prussia, Joseph of Austria, and Charles of Spain were doing in Europe.

This interest which was exemplified in the case of the German miners attached itself to all sorts of schemes for industrial improvement, and the correspondence of the Council of the Indies with the viceroys is filled with inquiries regarding progress and with further directions for new improvements in all manner of things. For instance, the cultivation of hemp, flax, and silk was supposed to be peculiarly suitable for Mexico. Not only were they never likely to be grown in such abundance as to compete seriously with the same industries in Spain, but they could be grown with advantage to all concerned in the colony. *Órdenes Reales* of April 19 and October 24, 1777, directed Viceroy Bucareli to "promote with efficacy the cultivation of hemp and flax,

[50] Revilla Gigedo, art. 489–490, "Por Real Orden de 21 de Enero de 1791, se mandó informar sobre lo que habian hecho y progresado los mineros alemanes y la utilidad que se podria esperar de ellos en estos Reinos. . . . Oyóse tambien al Tribunal de minería, y por fin se decidió el asunto en Junta Superior de 4 de Junio de 93."

and to this effect intelligent laborers from Spain would be sent over, and also teachers to instruct the natives.[51] As the first measures were not altogether successful, another *real órden*, March 10, 1780, was sent out to stimulate the work.[52] The natives evidently had a repugnance to the sowing of flax; so it was thought necessary to help the flagging industry by another order, April 12, 1792. Revilla Gigedo pointed out the difficulties of trying to make anything of this crop, which was exposed to the competition of others that were not only adapted to the country, but with the cultivation of which the natives were familiar. From the point of view of Madrid, however, this was not a matter for viceregal direction, and the work had to go on as one of those reforms forced upon the colony against its will by compulsion from Europe.[53]

If the home government felt the desire to correspond with the viceroys on such points as the particular method of extracting ores, examine all the evidence there was available, and prescribe rules for the carrying on of the process finally approved, it would of course feel bound to interfere even more minutely, if possible, in some of the other great branches of industry. If the government at Madrid had the time and patience to decide disputes regarding the use of cemeteries and the rights of sepulture,[54] as in the celebrated case at Vera Cruz, settled by the *real cédula* of October 9, 1792, it surely would find itself bound to regulate such a great business as the tobacco monopoly, and interfere in the construction of public works. As there was nothing in New Spain within the field of governmental activities free from royal caprice and the possibility of active interference, it must not be a matter of surprise to find the hands of the viceroy tied even in the most minute point of local administrative detail.

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[51] Revilla Gigedo, art. 391.

[52] *Ibid.*, art. 392. At this time the authorities in Spain seemed anxious not only to see Mexico produce these raw materials, but also to see extensive factories established for the coarser textiles.

[53] *Ibid.*, art. 393. It seems that the success of these first manufactures was due to the accident of war, which cut off the supply from Europe.

[54] *Ibid.*, art. 213.

The various regulations regarding what might be manufactured and sold in the English North American colonies seem unnecessarily harsh; nevertheless they were mild compared to those put in force by the Spanish government during the same period. The problem which the Spaniards had to face was not merely the extracting of the largest possible revenue from their colonies, but also to devise some sort of productive employment for the artisans of America which would not interfere with home industries. Revilla Gigedo discussed this question with such frankness and intimate knowledge of the subject that one can do no better than to quote his words:[55] "There are many persons who are unable to devote themselves to agriculture, and many more who cannot work in the mines where so much physical strength and robustness is required, and it is necessary to leave some form of industry to these people so that they can exist, without which the severest and harshest penalties and prohibition are insufficient, because the simple necessity of living forces these people to contravene the law. The one means of destroying the manufactures of this realm is to bring from Spain the same or equivalent products at a lower price. That is what has happened to the great silk corporation and industry which manufactured all kinds of silk textiles and of which there remains scarcely a memory. . . . . Having meditated very carefully on this point, I have come to the conclusion that the most convenient way of avoiding the two extremes is to encourage here the cultivation of certain fruits which do not take up the whole time of strong workmen as do the grains, but which would nevertheless give employment to another class of persons of both sexes and all ages, as has proved to be the case, especially with silk and also with hemp, flax, and even the cotton, the raw materials of which not only can be raised in abundance, but can also be prepared and woven up to a certain point, which has contributed already to

[55] This brazen and cynical statement of the way Spain should crush out nascent colonial manufactures gains in strength when it is realized that Revilla Gigedo was one of the most liberal and intelligent of all the later viceroys. Nevertheless, he could not escape from the prejudices of his birth and position.

the support of quite a number of persons. At the same time, this creates a new branch of commerce of very great usefulness and contributes to the progress of national manufactures, where there is an abundance of raw material.[56]

With such views as the above held by the rulers of both the mother country and the colonies, so utterly opposed to permitting the untrammelled, natural growth of industry, and so jealous of any prosperity in the colonies at the expense of the metropolis, the constant interference of the Council of the Indies with the viceroy becomes intelligible. There was always a possible danger of a viceroy allowing local industry to grow up opposed to the interests of Spain. It did not matter what his motives were, whether they were corrupt and for personal gain, or for building up a following among the Mexicans, and therefore treasonable. In any event, it was necessary for the crown to retain its grip upon the administration even at the expense of eternal vigilance.

A royal order was required to give final sanction to the changes in the methods of accounting in the central office of the tobacco monopoly, and another one, October 15, 1792, carried the royal approval of a plan of having the administrators of the *ramo de tabaco* make monthly reports of their sales to the office of the superintendent of *hacienda*. When the viceroy had worked out a scheme whereby certain sorts of business were to be transacted at certain hours on certain days of the week, another royal order, October 2, 1790, overthrew the whole arrangement. Although, in the words of Revilla Gigedo, "the revenue from tobacco is the most complicated by reason of the number of employees, the diversity of the operations in the buying and selling of the various kinds of tobacco, the manufacture of these various kinds into cigarettes, cigars, and the various forms in

[56] Revilla Gigedo, art. 374–376. In the immediately following paragraphs of the *instrucción*, the opinion is expressed that in many parts of Mexico the natives had a natural talent for weaving and that it would be possible to build up a considerable industry in the manufacturing of cotton. Reference is made to the favorable experiment made in the neighborhood of Tixtla in this industry, which it was thought possible to extend wherever good cotton lands could be found.

which they were sold and eventually distributed to the public,"[57] the home government was undismayed and continued to interfere with these matters which required the greatest possible local and special information.[58] When the tobacco monopoly was established in Mexico and there resulted a great public clamor over the taking away of the privilege of everyone to roll his *puros* and *cigarillos* in the manner which seemed to him best, the whole matter was called up for adjudication in Madrid, by the *real órden* of January 4, 1789.[59]

In the construction of the great public works of various kinds, where large sums of money were involved, the hands of the viceroy were tied more than ever by numberless orders and instructions from Spain. There was probably no more serious problem of this kind than that presented by the drainage of the valley in which the City of Mexico was situated. The dangers of an inundation of the city were so serious that for over a century the question of carrying away the surplus waters had been ever present to the Mexican government. In January, 1790, the king officially thanked the *consulado* of Mexico for its share in the building of the great drainage canal,[60] and after considerable intermediate correspondence another royal order, in the year 1793, ordered a new investigation of the project.[61] As the work progressed, reports from Mexico and new directions from Spain alternated continuously, though the interest taken by the royal government in the great *desagüe de Huehuetoca* did not lead to a final completion of the work while Mexico was still a Spanish colony.[62] However, the interest taken by the crown in this engineering work was not appreciably greater than that given to

[57] Revilla Gigedo, art. 1170.

[58] *Ibid.*, art. 1171.

[59] *Ibid.*, art. 1172. January 4, 1793, a royal order, "*muy reservada*," directed the viceroy to find out if there were any means of suppressing the tobacco monopoly, without prejudice to the royal treasury and the employees of the *renta de tabaco*. This project would have left the whole tobacco business to private industry.

[60] *Ibid.*, art. 262..

[61] *Ibid.*, art. 266.

[62] *Ibid.*, art. 263.

the drainage of the interior of the City of Mexico, or even the problem of paving a part of the city streets. In May, 1785, the *audiencia*, which had at that time the control of the government pending the arrival of the new viceroy, Bernardo de Gálvez, requested the king to grant a slight increase in certain taxes for the purpose of carrying out the work of paving a few main streets.[63] It would hardly seem worth the attention of the Council of the Indies to debate such a question, but this is what happened. By a royal order of November 28, 1785, approval was given to the petition of the *audiencia* on all points except the increase of the tax on *pulque* from two to four *granos* per hundredweight. The viceroy was authorized "to continue the work of paving, if he considered the matter urgent, with the revenue derived from the two *granos* and the other taxes."[64] After a report on what had been done had been sent back to Spain, a new royal order, dated February 16, 1791, informed the viceroy that the instructions already given settled the question. A *fiscal* then sent back still more information to the king with the further result of more *órdenes reales* and more memorials from Mexico, but by the end of the administration of Revilla Gigedo the work was still incomplete and no definite policy had been decided upon at Madrid.

Even at the risk of making tiresome these details of a more or less useful interference in purely Mexican affairs on the part of the crown, these transactions have been stated in order to show by typical illustrations the character and import of the watch which Spain jealously maintained over her colonies. Spanish paternalism stooped at no detail in the complex political and economic organization of her dependencies, and additional examples of its operation could be given, *ad infinitum*. The regulation of the exact manner in which reports should be submitted in some subordinate government office in California, or the amount of duty that ought to be levied or remitted in order to enable Mexican sugar to supply enough raw material for the rum

[63] Revilla Gigedo, art. 274.
[64] *Ibid.*, art. 275.

industry, were proper subjects for correspondence and interchange of views between the viceroy and his king.

The policy of the Spanish government in looking upon the viceroy and the *audiencia* as mutual checks upon one another led to the necessity of settling disputes between them in the Council of the Indies. Sometimes these disputes were grave ones involving matters of jurisdiction and sometimes they were mere questions of precedence and etiquette. The most famous of these cases of a prolonged misunderstanding between the viceroy and the *audiencia* was the one which began in 1789, when Revilla Gigedo began his rule. In his own language we have the following account: "On taking possession of this command I found the abuse that the personal guard of the viceroys accorded the honors of a captain-general to the archbishop and the honors of governor of the province to the *audiencia* when it appeared in a body. Before trying to remedy this abuse, I had a talk with the archbishop and the two representatives of the *audiencia,* in which I told them I did not wish to violate the military ordinances governing such matters, and accordingly I suspended the rule which related to military honors on the plaza.[65] The archbishop and the *audiencia* promptly appealed to the king, asking that the military honors formerly shown them on public occasions be continued. They based their claim on the royal order of August 3, 1765, which ordered a continuation of such honors to the *audiencia* after they had been suspended by the order of the Viceroy Cruillas.[66] They further declared that unless they were so treated they would suffer a loss of esteem in the eyes of the public. The result of these appeals was a *real órden,* January 25, 1792, deciding the main contention in favor of the archbishop and the *audiencia,* and allowing them the same honors which they had enjoyed before the accession of Revilla Gigedo.[67] Another decree of April of the same year, however, saved the face of the viceroy by forbidding his personal guard to give royal honors to

[65] Revilla Gigedo, art. 524–525.

[66] *Ibid.*, art. 526.

[67] *Ibid.*, art. 527.

anyone but himself and members of the king's family. To soothe the archbishop and the *audiencia,* it was provided by this same decree that a special palace guard be created to render them the proper military honors. This meant more appeals to the king on the part of the viceroy's rivals, this time through the secretary of war instead of the Council of the Indies. After considerable delays and two more *órdenes reales,* a decision was at last reached and Revilla Gigedo was finally sustained in the position he had taken.[68]

In the cases described above, the viceroy prevailed signally over his political opponents, but in the most important cases decided between them during the latter half of the eighteenth century, decisions had been the other way. The high court composed of lawyers and churchmen must have felt as great a contempt for the soldier-politician who had been elevated to the first place, as such an able soldier and statesman as Revilla Gigedo felt for them when they attempted to interfere in military affairs and demand for themselves the highest military honors. The creation of the office of *regente,*[69] practically excluding the viceroy from his former position as chief justice, and the royal order which forbade his taking any part in judicial affairs, were objected to vehemently by the chief executive but were maintained in force in spite of his protests to Madrid.[70] This was therefore a victory for the lawyers, and all things considered, their position was stronger relatively to the viceroy toward the close of the Spanish regime than it was at the beginning.

It is therefore apparent that the home government had succeeded in so shaping the constitution of the viceregal office as to maintain a balance between the *audiencia* and the viceroy and to keep a close watch on all details of the administration. It was evidently the policy at Madrid to confer upon the viceroy all possible dignity and maintain him in that dignity against all opposition, but never to allow him a disproportionate amount

[68] Revilla Gigedo, art. 529.
[69] *Ibid.*, art. 54.
[70] *Ibid.*, art. 64.

of power. That no invasions of his dignity were to be allowed can be seen from the history of the struggle for precedence between the viceroy and the *audiencia*. In the words of Revilla Gigedo himself,[71] "The presidency of the *audiencia* places the viceroy at the head of that body but not to give orders to it, as even his acts in matters of justice are subject to it; and although he is present at its sessions, which is very difficult, considering the grave and continuous occupations which so vast a command imposes upon him, he does not have a vote in matters which are regularly dealt with there—that is, matters of justice. Thus it comes about, that the pre-eminence of the *audiencia* scarcely consists, when the viceroy is not a lawyer, in more than the prominence of the place which he occupies when they meet together in public functions." The ceremonies to be observed on these public occasions, such as the viceroy's riding alone in the state carriage and having the *regente* walk at his left side, and similar matters, were definitely determined by the *real cédula* of October 17, 1791. The vote of the viceroy in the *audiencia* had no more weight than that of any other member and when decisions were rendered contrary to his judgment he did not have the power of rectifying things himself but could only report matters to Spain, giving reasons for the action he proposed.

The last example to be given of the correspondence between Mexico and Madrid is that one dealing with the difficult problem of the Provincias Internas.[72] These somewhat misnamed interior provinces were, in 1789, in a most critical condition because of the dissensions among their officers and the attempt of the commandant to make himself independent of the Mexican viceroyalty. On account of this trouble, Revilla Gigedo was ordered by the king to visit the districts affected. In consequence of this visit, a report was sent home, February 12, 1790, declaring in substance that the independence of the Provincias Internas was not desirable, and a new plan for their government was submitted

[71] Revilla Gigedo, art. 20.
[72] *Ibid.*, art. 719.

at the same time.[73] In the meanwhile order had been restored there and everything was tranquil when the *real órden* of November 22, 1792, provided for the absolute independence from the viceroyalty of the states of Sonora, Nueva Viscaya, New Mexico, Coahuila, and Texas. In this case, as in so many others, the advice of the colonial governor was not followed, but he was employed freely as a trusted agent in carrying out the wishes of the royal government. Where there was such a dispute over jurisdiction, as in the case of the commandant of the interior provinces who claimed an entirely independent position and actually exercised it in military affairs, the interference of the crown was necessary. This interference was perhaps the more necessary because of the difficulties arising out of the financial relations of the two areas.[74] However, in most of the cases described above, it would seem as if greater simplicity and consistency in the administration would have been secured by giving to the viceroy a greater degree of discretion.[75]

From a study of these illustrations of the relations of the viceregal government to that of Spain, it will be possible to make clear the following conclusion. In the first place, there was apparently no limit to the scope of the interference of Spain in Mexican affairs. If anything occurred in the Mexican administration which awakened the slightest degree of suspicion or interest in Madrid, the whole matter would be taken up for consideration there. Detailed information upon the subject in all its bearings would be ordered from Mexico, and a decision would be reached on the basis of these written reports. If it were not a matter simply to be decided one way or the other, but some new administrative project which had to be thought out carefully and in great detail, it was a very common thing for the

[73] Revilla Gigedo, art. 720. In a letter of February 28, 1793, the viceroy tried to convince the government of Charles IV of the impossibility of really making the interior provinces independent, at least without great expense, as had been found out during the administration of Bucareli.

[74] The head of the Provincias Internas, bearing the military title of commandant, had to rule over a Spanish frontier community which was too poor to maintain the military establishments necessary for its defense. Hence the financial dependence on the viceroyalty of New Spain.

[75] Revilla Gigedo, art. 721.

Council of the Indies to send along with their decisions a most elaborate set of rules to govern the enforcement of the act. Nearly every military unit, or commercial company, or organization of any kind, had its own particular constitution and by-laws. Such corporate bodies as the University, the Academy of Fine Arts, or the *Consulado* of Mexico, had constitutions many times the length of that of the United States. It very often happened, moreover, that some one of these by-laws or some procedure in pursuance of them, required in itself special interpretations from home, so that in a certain sense no question was ever definitely adjudicated, and there was no limit to the piling up in the archives of official documents and correspondence.

In the second place, and this complementary to the statement just made, the viceroy and the *audiencia* referred all sorts of questions to Madrid. It was evidently understood that nothing but a very temporary or unimportant departure from the usual routine would be tolerated by the crown, so that any measure in the slightest degree novel was usually sent up to the Council of the Indies for final decision. There is no evidence that the home government made any effort to discourage these constant and petty appeals, and it seemed preferable to despatch countless *órdenes reales* approving of some act, rather than to allow the possibility of the viceroy's making a mistake independently.

In the third place, the vast deal of correspondence and the timidity of the colonial officials in acting alone, resulted in a painfully slow pace in matters of administration.[76] The criticism which has always been made by foreign critics of the Spanish administration everywhere is that of insatiable desire to draw up papers. A mass of documents has always figured as the great cause of the retardation of the course of Spanish justice. It certainly made very cumbersome the routine of colonial government, and the delays caused by collecting information and drawing up reports became proverbial.

[76] So much has been said about this feature of the Spanish administration that a similar state of affairs existing in the English colonies should be pointed out as a corrective to the idea that Spain had a monopoly of this kind of inefficiency. Greene, pp. 66–77.

In the fourth place, by means of the minute supervision which the crown exercised over the viceroys in America, the latter were held to an accountability which could not be secured in any other way without entirely remodelling their system of government. In the Spanish-American viceroyalties there was no such thing as a legislature to restrain the executive through the power of the purse. The English royal governors in North America were by no means dictated to in matters of detail to the same extent as were the Spanish governors in the south, but the English provincial executives were ever watched by a jealous assembly armed with the power of withholding supplies. A Mexican *audiencia* was perhaps as jealous as the colonial assembly, but there was the all-important difference that the *audiencia* could not stop the whole governmental machine by its control of appropriations.

In the fifth place, it is undeniable that there was no other European power which had in its service, at home, such an experienced and able corps of experts on colonial affairs as was the Council of the Indies. This fact, combined with traditions of an absolute monarchy, doubtless tempted the kings of Spain to rely more on the methods of a highly centralized administration than would have been permissible in Great Britain. All the members of this Council were supposed to be intimately acquainted with the details of government in the Kingdom of the Indies, and these very qualifications made it all the easier for them to legislate on fine points where an English parliament would have to be content with laying down broad lines and leaving to the colonial officials the working out of the details.

CHAPTER III

THE VICEROY AS GOVERNOR[1]

Anyone but slightly acquainted with Spanish-American institutions might naturally fall into the error of assuming that the duties of the viceroy could easily and accurately be classified under the heads of civil, military, and ecclesiastical; and that these three grand divisions were administered by the viceroy as governor, as captain-general, and vice-patron, respectively. Doubtless the whole mass of viceregal duties might be apportioned off into those three fairly definite compartments, but in the matter of actual administration it will be found that each department was not administered by the viceroy in any strictly well-defined capacity.

In a general way, of course, the viceroy's commission as *gobernador*, or governor, placed him at the head of the civil administration, just as the great department of war and military matters belonged to him as captain-general, and as his acts in matters ecclesiastical were performed as vice-patron, but these statements are true only in a general sense.[2] The following important qualifications of the above statement must be made at the very outset. The civil side of the *ramo militar*, the work of a modern war department, was performed by the captain-general, and many matters of the nature of organized charity and poor relief, which we

[1] In the writing of this chapter little or no help was received from the secondary authorities. These writers, even including Bancroft, are at their worst when handling the civil administration of New Spain. This may be a reflection of the obscurities of the primary sources, for they are by no means clear and are often even contradictory. The instructions of the viceroys are, however, the best material available, and those of the two Revilla Gigedos, of Marquina, and to a less degree, of Branciforte were most used for this chapter.

[2] Revilla Gigedo, the Elder, art. 26.

now see carried on as one of the functions of the civil government, were then done by the church or by the vice-patron. Moreover, some of the most important activities of the viceroy as a civil administrator were performed, not by the governor, but by the viceroy as superintendent-general of the *real hacienda*. The regulation of the finances, always one of the most important branches of a modern government, did not then belong to the governor at all, and consequently must be treated independently in a chapter by itself.

Though in the eyes of the Spaniards it was the office of captain-general which was the greatest ornament and source of power to the rulers of New Spain, the investigator of the present day must be more interested in the way civil affairs were conducted, the way justice was or was not secured, and the way the government touched the every-day matters of industry, commerce, and the general welfare, than in the purely military problems of the time. The latter were not so vital to the national safety or to the Spanish supremacy in America as the more prosaic questions of handling the Indians wisely or binding the creoles to Spain politically, by wise economic and commercial legislation. There was little real danger to Spain of losing her American empire as the French lost Canada, as long as her rule was acceptable to the great mass of the colonial population, and thus the real problems before the viceroys were civil ones, and the governors and superintendents-general of the *real hacienda* were the most important officials of New Spain, outward show and pomp notwithstanding.

In treating of these duties of the viceroy as governor it must be remembered that in this aspect of his rule the viceroy was more of a local official than he was as captain-general, vice-patron, or superintendent of finance. In addition to the three last named positions, the viceroy's authority was as wide as the whole territory of the viceroyalty, but as governor he was only one of a dozen or so governors, with this difference, that the province of Mexico was by all odds the wealthiest, most populous, and most important of them all. As governor of this central prov-

ince, containing as it did the capital city and the central administrative offices, the viceroy might pitch the tone of the provincial administration for the whole country, and aside from this indirect influence, he was not lacking in actual authority over the other governors.[3] In this matter, then, the governor of Mexico was not the apex of the great administrative hierarchy, but only a sort of *primus inter pares*. However, the governor of Mexico had an influence on the civil administration disproportionately greater than the size of his province would justify. All the governors, and later the intendants, were constantly receiving directions from the Council of the Indies, and it need not be a matter of surprise to find that the viceroy-governor had far greater opportunities for influencing the Council of the Indies than could possibly be possessed by the other governors. This gave him a position of advantage, which, combined with the superior personality of the man chosen for this post, usually made the governor of Mexico the central figure in the provincial as well as in the viceregal government. This same principle was observed after the decree of the intendants was put into effect in 1786, so that the intendant of the province of Mexico was regularly the viceroy himself.

According to the laws of the Indies it was provided that the viceroys "also be governors of the districts under their command," and they were further ordered to govern their dominions in peace and justice.[4] There were many other royal orders which kept this precept before the minds of the viceroys, and they were made, in a special sense, the guardians of the natives. But about the middle of the eighteenth century serious inroads were made on the judicial powers of the viceroy. Although these judicial functions were gradually taken away, with the exception to be noted later in regard to the natives, one of the most important

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[3] Revilla Gigedo, art. 251. Here the viceroy declares that all the provincial towns follow the example of the capital.

[4] *Ibid.*, art. 63. "Deben los Vireyes ser tambien Gobernadores en los distritos de su mando, segun la ley quinta del título de los Vireyes y Presidentes en la Recopilacion de Indias, y deben, segun ellas y otras, gobernar los pueblos en paz y en justicia. Hay algunas Reales Cédulas que repiten este precepto á los Vireyes, y aun les han reconvenido de no haber hecho que se administre justicia y se castiguen los delitos."

duties of the governor and the one which will be considered first here, was that of having general charge of the enforcement of the laws. The more recent laws issued by the Spanish crown had had the effect of depriving "the viceroys absolutely of any part in the procedure of the administration of justice, either alone or in company with the other judges, voting with them in the *audiencia*."[5] By 1794, these changes had been carried so far that the supreme power in matters of justice lay in the *audiencia*, so that it had the last word in determining all cases appealed to it from inferior tribunals.[6] Though the foregoing statements show clearly enough that the later tendencies of Spanish legislation were to separate all judicial functions from the chief executive in New Spain and to reduce the governor of Mexico to the position of a provincial executive, pure and simple, there remains something to be said on the other side.

The governor had still been allowed to remain president of the *audiencia* and as long as he remained in this position it was practically impossible to prevent his having some influence on the courts of justice. In a great many cases matters of government were so inextricably intermingled with matters of justice that it was not possible to separate them, and in such cases the governor had to use his vote and take a hand in the settlement of such matters, regardless of royal prohibitions. In a land where administration concerned itself so much with the business and the rights of citizens, there must have been a great many cases on the border-line between justice and politics, and all over this doubtful field the influence of the governor was felt.[7] Inasmuch as the *audiencia* was continually seeking to extend its jurisdiction at the expense of the other magistrates, the latter were driven in self-defence to assert their power to the uttermost, and thus

[5] Revilla Gigedo, art. 64.

[6] *Ibid.*, art. 65. Though the *audiencia* was in one sense the supreme court of the country, it had little resemblance to such a body as the Supreme Court of the United States. Usually the judges were divided among three groups, or *salas*, two for civil suits and one for the criminal. It was very seldom that the whole *audiencia* met as one body. This viceroy recommended the reduction of the number of *oidores* from ten to eight.

[7] *Ibid.*, art. 84.

the governors were tempted to exercise a part of the judicial functions under the color of administering their political office. In general, however, in the course of this long struggle between the viceroys and the *audiencias* over the matters that might be appealed to the latter and those that might not, it became evident that the *audiencias* were gaining ground. The viceroys kept insisting to the last that the crown definitely settle the dispute,[8] but in the meanwhile they held to their prerogatives in a way that must have seemed to the *audiencias* nothing less than usurpation.

The remedy suggested by Revilla Gigedo to Branciforte was, in his words, " . . . . very simple to preserve the decorum of the viceroy, the authority of the *audiencia* and of the judges, and the efficiency of the administration of justice to the vassals of His Majesty, and would be to have the decisions appealed from the Viceroy, heard before himself, with two or three of the judges associated with him."[9] Such an arrangement, he thought, would not embarrass everybody as did the arrangements then in force, and the authority of the viceroy would suffer less in the popular esteem if his decisions were set aside in his own name.[10] This he believed would also tend to expedite questions under adjudication and so relieve one of the worst abuses of Spanish justice, thus frankly making the governor the presiding judge of the highest court of appeals. It is interesting to see a proposal of this kind put forth on the eve of the dissolution of Spain's rule in America. During this period of war and confusion, which was not to be interrupted by a period of peace until Mexico was independent, there was no opportunity for reforms, and so the struggle between the *audiencia* and the viceroy was never settled.

In spite of the contest with the *audiencia* and the tendency of the crown to limit the judicial functions of the governor, there were still left to him four distinct situations wherein he was called upon to act as judge. The first, was as judge of the City

[8] Revilla Gigedo, art. 86.

[9] *Ibid.*, art. 90.

[10] *Ibid.*, art. 91.

of Mexico, under the title of *corregidor*.[11] The *corregidor* was the chief official of the city and so presents some analogy to a modern mayor, but he was more of a judge and less of an executive than the mayor of an American city. It would seem a patent absurdity to thrust this additional burden upon the ruler of the viceroyalty and at times the two offices were kept separate, but at the end of the eighteenth century the governor and the *corregidor* were one. The second judicial duty of the governor was exercised as chief of the general Indian court, the *juzgado general de indios*, which was exclusively for the trial of law-suits involving the natives, and was the highest court of this kind. The third and fourth cases did not belong strictly to the governor, but rather to the viceroy in his other capacities. As subdelegate of the post office department, which meant the chief of that division of the administration for the whole viceroyalty, he was judge in the first instance of all cases growing out of this branch of the public business, appeals going from him to the national head of this department, the *ministro de correos*, in Madrid.[12] Also, as captain-general, rather than as governor, he was supreme judge in all cases growing out of the *fuero militar*.

In the light of all this evidence the conclusion must be drawn that the home government did not succeed in establishing any clear line of demarcation between the executive and the judicial divisions of the viceroy's powers. The order from Madrid not to "*proceder en punto de administracion de justicia*" could not be obeyed even in spirit without a more violent change in the governmental organization than was desired at home, and in consequence the order remained practically a dead letter.[13] Nothing has been discovered among the authorities to show why the Council of the Indies sought to divest the executive officers in

[11] Revilla Gigedo, art. 79. The courts of justice for the City of Mexico were eight in number, there being one court for each of the eight *cuarteles*. Of the eight judges, five were *alcaldes de corte*, two were *alcaldes ordinarios*, and one was the *corregidor*. In each of the eight districts there were also four inferior *alcaldes* who had little discretion in legal matters and merely carried out orders of their superiors. This was the same scheme that worked so well in Madrid. There were twenty-eight cities in 1794 that had *alcaldes ordinarios*.

[12] *Ibid.*, art. 106.

[13] *Ibid.*, art. 64.

the New World of their role as judges.[14] There had been, to be sure, plenty of complaint in regard to the amount, the tediousness, and the expense of litigation in the colonies. There was, too, the old complaint of corruption, and the Madrid government may have sought to attack this old evil by taking the administrator off the bench. It is possible that the theory of the separation of powers may have been working among Spanish statesmen, but there is no direct evidence that the ideas of Montesquieu were consciously applied in Spanish-America.

A much more important work for the governors of Mexico than the administration of justice was the building of public works. The construction of roads, bridges, drainage canals, and public buildings of various kinds was assuredly one of the most engrossing of the governor's duties. In spite of the many disadvantages under which they labored, these Mexican rulers were able to accomplish much in the way of improving internal communications and developing the resources of the country. In the words of one of the viceroys, "In the realm of economics and policy the laws have sought to reserve to the viceroys a wider jurisdiction than in that of justice; nevertheless, very seldom can they exercise their faculties without contradiction and in many points they find themselves restricted by various royal orders, especially in the handling of money derived from certain taxes (*la inversión de propios y arbitrios*) which funds ought to be used for general public utility inasmuch as they are the general property of the district which pays them."[15] Though the governor had real power in the matter of public improvements, both in their initiation and in their superintendence while in the process of construction, there was a lack of resources, both in population and money, to permit a great deal being done.[16] Besides the configuration of the country, which

[14] Revilla Gigedo, art. 83. Outside the City of Mexico the intendants and their assessors were the best fitted, in the opinion of the viceroy, to exercise the simplest judicial functions. The subdelegates were such an inferior lot of men and so lacking in independence that they could not be trusted in any judicial capacity.

[15] *Ibid.*, art. 141.

[16] *Ibid.*, art. 142.

by its roughness and great elevation often converted the building of a carriage road into a veritable feat of engineering, there was always the permanent difficulty of an extremely sparse population. This sparse population was not only of a low average per capita wealth, but was further divided into different races, so that it was not only scattered but disunited.[17]

The principal evil that was complained of as standing in the way of the carrying through of the great public improvements was the inefficiency of the local administration and the lack of a concentration of power in the hands of the governor.[18] One of the prominent examples of this weakness of the local authorities, and the consequent difficulties placed in the way of the governor, is to be found in the building of the road from the capital to the town of Toluca. The valley of Toluca was called the granary of Mexico and there was urgent need of easy communication between the two.[19] In 1768 the first survey was made by an engineer named Ailmert. Nine years later they had proceeded as far as drawing up plans.[20] By 1785 the question was again brought to the front and a scheme of operations was prepared. The financing of the project was long and difficult, it being especially hard to get the different localities sufficiently interested to appropriate the necessary money,[21] and it was only through the generosity of a private citizen that this money was secured as a loan. The work was at last began in the fall of 1793, and seemed to be regarded by Revilla Gigedo as one of the monuments to his administration.[22]

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[17] Revilla Gigedo, art. 143 and 144. According to the census of the year 1790, the population of the viceroyalty was estimated at three and a half millions at the outside. The forbidding of Sapniards to live in the villages of the Indians had, of course, kept the races apart and denied the Indians the advantage of contact with a superior civilization.

[18] *Ibid.*, art. 154. Also, for details of the duties of a provincial governor see the correspondence in the first volumes of the *Provincial State Papers*, particularly vols. i–iii.

[19] *Ibid.*, art. 173.

[20] *Ibid.*, art. 174.

[21] *Ibid.*, art. 177.

[22] *Ibid.*, art. 185. The status of the project in 1797 may be seen from the letter Branciforte to Paz, Dec. 27, 1796.

Of a similar nature, and equally illustrative of the activities of the governor, was the work on the other great highways, such as the road from Vera Cruz to Mexico, and from Mexico to Acapulco,[23] and the road leading from Mexico in a northeastly direction to the region of Tampico.[24] It is interesting to see how one of the roads proposed to the viceroy at this same time was rejected for political reasons. Though the viceroy admitted that the chief obstacle to internal trade was the absence of roads, the building of the one from Louisiana, through Texas, and down to the City of Mexico was opposed by him because it would interfere with the security of the Spanish domain from an attack from the north. These reasons were stated by Revilla Gigedo in a report to the Ministers to the Indies, April 30, 1793. The substance of his argument was that the inhabitants of New Orleans in particular, and to a less extent the Americans in general, were deserving of suspicion. He even went so far as to recommend the abandonment of the town of Nacogdoches and the giving up of any attempt to encourage trade between Texas and Louisiana.[25]

Of greater importance to the City of Mexico than the building of public highways was the proper drainage of the valley in which the City of Mexico was situated. In the language of the instruction to Branciforte, the drainage canal of Huehuetoca was "always and of right ought to be one of the principal cares of the viceroys, as upon that depends the freedom of this capital from a contagion as fearful as that of the inundations, and for which purpose there has been assigned sufficient funds derived from the three taxes which yield twenty thousand pesos annually."[26] The direction of the actual construction of this drainage canal, or *desagüe*, as well as the providing of sufficient revenues for it, fell to the governor. From the earliest days the

[23] Revilla Gigedo, art. 197. Also, Branciforte to Paz, Sept. 26, 1796.

[24] *Ibid.*, art. 196.

[25] *Ibid.*, art. 448.

[26] *Ibid.*, art. 268. There had not been a serious flood in the City of Mexico since the seventeenth century, but the fear of the recurrence of such an event was never absent.

problem of disposing of the vast body of surplus water which accumulated in the valley of Mexico during the rainy season had remained most difficult to solve. The city was surrounded by low mountains which shed their waters into the valley from all sides,[27] and some of the floods had caused great damage to property and great loss of life. Various experiments had been made in the drainage of the valley, but it can scarcely be said that the question had been settled rightly by the end of the eighteenth century. A special corps of officials had been created to look after this work, at the head of which was placed a superintendent, or *juez superintendente*. To assist him there was created a guard, (*guarda mayor*), with the proper officers.

During the rule of Flores, the *consulado* of Mexico was given charge of the execution of this work, and the regent of the *audiencia* was commissioned to examine it and report on what had been done.[28] The home government now took an active interest in the matter, so that the governor henceforth could do little more than offer advice and keep an eye on the *consulado*.[29] In a sense, however, the governor was never free from worry and responsibility growing out of the fear of an inundation, and the canal of Huehuetoca must be regarded as an expensive makeshift, imperfectly doing the work expected of it till the proper solution was arrived at in the time of Díaz. It is not easy to think of the land of Mexico as peculiarly adapted to internal water communications, but in 1794 we find a viceroy saying that "much more advantageous than the roads, would be the construc-

[27] Revilla Gigedo, art. 255. The drainage of the Valley of Mexico was carried in a northeasterly direction to the Gulf of Mexico, by way of the Tula and Tampico rivers.

[28] *Ibid.*, art. 256.

[29] The *consulado* of Mexico was created in the sixteenth century on the model of institutions of the same name in various cities of Spain, notably after that of Seville. These *consulados* were designed to further trade and industry and to assist in the administration of the commercial law of the country. They were at once chambers of commerce, admiralty courts, banks, and business corporations. A large number of new ones were established and several of the old ones given new charters during the latter half of the reign of Charles III, and they formed no inconsiderable part of a new commercial system put into force at that time. They were ruined by their large advances of money to the crown during the Napoleonic wars.

tion of canals, or rendering navigable certain rivers, which could be accomplished at slight cost."[30] It was believed that, with very little expense, a large part of the viceroyalty, to the south and southeast of the City of Mexico, could be made tributary to the port of Vera Cruz by means of internal waterways.[31] In May, 1790, the director of engineers, Miguel del Corral, submitted plans for such an undertaking in pursuance of an order to that effect given him by Revilla Gigedo. In spite of the comparatively low cost of this and similar undertakings, the drain upon the Mexican finances, caused by the remission of funds to Spain, and the confusion brought about by foreign war, prevented anything very effective being done.[32]

Although little was actually accomplished along these lines, it is interesting to see what attention the Mexican governors were bestowing upon a comprehensive scheme of internal improvements. There seems to have been nothing comparable to this anywhere among the English North American colonies. Enough was done by the Mexican governors to illustrate on a modest scale the workings of an enlightened despotism in a Spanish dependency. It was proposed to take full advantage of the location of the City of Mexico at the hydrographical center of the viceroyalty.[33] Though the rivers were not large, they flowed in all directions from the central plateau down to the two coasts, and it was proposed to utilize them to convert the capital city into a common center of all the trade routes crossing the country, whether by land or water. It was realized that neither the population nor the trade at that time justified the immediate carrying into effect of all these projects, but the attempt to formulate scientific plans for the carrying through of these internal improvements as times and conditions justified them, reflects the highest credit on the Spanish rule. According to the viceroy-

[30] Revilla Gigedo, art. 199.

[31] *Ibid.*, art. 200. It does not appear that any one contemplated at this time the building of a great road over the Isthmus of Tehuantepec or of constructing an interoceanic canal.

[32] *Ibid.*, art. 205.

[33] *Ibid.*, art. 202.

governor who ruled from 1789 to 1794,[34] "It was most necessary for works of this and other kinds, and to carry them through with complete information, that there be engineers in these dominions for that particular object. With this in mind I asked that there be sent over, knowing this lack, two engineers of ability and industry in the word, to prepare a topographical map of the country." With such a topographical map to throw light on the lay of the land, and a census to answer a similar purpose for the population, there was a most intelligent beginning for all manner of political and economic reforms.

One of the most important duties of the governor was the general care and supervision of the public health. Even with the magnificent climate of the central plateau region, there prevailed over the whole viceroyalty a high death rate among people of European birth. Humboldt's treatment of this subject was so thorough that all that need be said here is in the way of illustration of the viceroy's political activities. The unhealthfulness of the coast regions, not only around Vera Cruz on the Gulf coast, but also around San Blas on the western side, was proverbial, and as captain-general the viceroy had to wrestle with the problem of keeping the health of the troops garrisoning such places. But the civil population of the country was also exposed to the ravages of various epidemics.[35] One of the causes commonly assigned for these plagues was the presence of cemeteries in the cities, and it was only after a long fight that the governors succeeded in having new cemeteries established outside the larger centers of population.[36]

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[34] Revilla Gigedo, art. 206.

[35] *Ibid.*, art. 241.

[36] In spite of the fact that the City of Mexico was not as compactly built and crowded as most European cities of the same size, there were certain conditions adverse to public health. Physical uncleanliness was very general, and Revilla Gigedo's description of what was visible from the palace windows (art. 244) gives an idea of street life. The lower classes were accustomed to go about with little or no clothing except one garment which answered all purposes. The employees of the government were forced to dress properly, and in one year ten thousand workmen of the tobacco factory and other government shops were made to adopt suitable garments. In Vera Cruz the problem of the disposal of the dead was especially acute. Revilla Gigedo, Feb. 9, 1792.

It is not easy to assign the exact functions of taking care of the public health to the different officials who had some degree of responsibility for it. The governor had the leading, though not the exclusive, part in this matter, and the full responsibility was not centered in any one office. The general care of the health of the troops belonged naturally to the captain-general, the management of many of the hospitals rested finally with the archbishop, while in financial matters and the providing of necessary revenues the intendants had an important share. Such a matter as the providing for suitable cemeteries, referred to above, was not settled without reference to all these officials and some interference from the home government in addition.

In all matters relating to public health the governor was assisted by an official called the *proto-medicato,* who not only concerned himself with the examining and licensing of physicians, but also occupied a position not unlike that of a modern health officer. The relation of these officials one to another may perhaps be best exhibited by the following facts. The *corregidor* of the City of Mexico, in November, 1790, reported that a number of persons had died of tuberculosis and that other persons had afterwards worn the clothing of the deceased.[37] On receiving this information the governor summoned the *proto-medicato* to assist in working out a number of general hygienic rules relating to this question. Cases of violation of these rules were to be reported by physicians and other persons to the authorities of the city and suitable penalties were to be imposed upon the offenders. In the drafting of these ordinances the governor was represented by the *fiscal de lo civil,* who collaborated with the *proto-medicato.*[38] The *informe,* or report, of the latter, on being approved by the *fiscal* and finally by the governor, was sent around to all the intendants of the viceroyalty. The most important provisions in this general order related to the burning of the clothing of those who had died of infectious diseases and the fumigation of the wards in the hospitals where they had

[37] Revilla Gigedo, art. 228.

[38] *Ibid.,* art. 229 and 230.

died. In a similar way the governor and the *proto-medicato* took other measures to diminish the danger of epidemics, and pest-houses or *lazaretos* were established in the places where they were most needed.[39] Medical men were encouraged to write essays on the cure of the most dangerous diseases[40] and the beginning was made of an attempt to collect and tabulate vital statistics with particular reference to the various diseases and their relative mortality.[41] The cleaning of the streets of the City of Mexico, the disposal of filth and debris, which were not only unsightly but also unhygienic, also required the attention of the governor, and were regarded as important enough to deserve considerable space in the instructions Revilla Gigedo prepared for Branciforte in 1794.[42]

Duties like these just mentioned in regard to the public health had a close connection with the more general problems of municipal government, and lead up naturally to the discussion of the duties of the governor as head of the administration of the City of Mexico. The governor was sometimes the *corregidor* and sometimes there was a separate official for that post, but at all times the governor was responsible in a general way for the government of the city.[43] When there was a separate *corregidor* he was directly subordinate to the governor, and so it was a comparatively unimportant matter whether the two offices were single or combined. All the Mexican municipalities had their local government, with numerous elective officers and a town council, or *ayuntamiento*, but these local officials were overshadowed in the capital by the presence of the viceroy.

Reference has been made above to the work of the viceroys and their correspondence with Madrid on the subject of paving

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[39] Revilla Gigedo, art. 234.

[40] *Ibid.*, art. 241. Of the essays submitted, two were voted acceptable, though one "was very diffuse and both needed considerable corrections."

[41] *Ibid.*, art 238 and 239.

[42] *Ibid.*, art. 245 and 246.

[43] The opinion stated here is my own, and is an inference from a large number of facts bearing on the relation of the governor with the corregidor. I never have seen an explicit statement that the corregidor was actually subject to the governor.

the streets of Mexico City and providing for suitable drainage. These and other activities, which in a modern American city would be performed by a board of public works, were not merely referred to the governor, but were actually initiated by him. As was shown in Chapter II, it was most unusual for anything of consequence to be completed without the interference of the home government, but whatever was done or decided in America had to pass through the hands of the viceroy. Without going too greatly into details, mention can be made of the following measures that were considered important during the first years of the reign of Charles IV.

Before 1789, very little had been done toward the illumination of the city or toward making effective provisions for the protection of life and property. In 1776, proclamations had been issued by the governor on the subject of lighting the city streets, and in 1783 persons with property were ordered to keep their houses lighted, as were also those in charge of the various public buildings, shops, stores, and the like.[44] Three years later this was approved by a royal order, but a year after there was no noticeable improvement and so the viceroy ordered the erection of street lamps where there were none before. Although offenses against these ordinances were punishable by banishment, nothing was accomplished by them up to the year 1789. Some of the wealthy merchants and public officials did their share by lighting their residences and offices, but something more drastic was required to secure the general enforcement of the law.[45] Instead, however, of continuing this attempt to force property-owners to illuminate their own premises, the governor had recourse to the *ayuntamiento* to furnish revenue for a system of street lighting at public expense and administered by the city. The new system was installed at a cost of 35,429 pesos, and with an annual cost of maintenance of 24,440 pesos. Revenue for this was found by an

[44] Revilla Gigedo, art. 292. The lighting of the streets was done by means of oil lamps. A month was given to the inhabitants to comply with the law, and if any resisted they might be expelled from the *cuartel*. The enforcement of the law was in the hands of the *alcalde de cuartel* who decided how each person was to pay.

[45] *Ibid.*, art. 293.

octroi tax on flour,[46] approved by the *procurator-general* and the *síndico* and still later by the *fiscales de lo civil y de real hacienda.* The final approval was given by the *junta de propios,* or council of taxation, October 15, 1790, and a special fund for this purpose was administered separately.

About the same time the problem of fire protection for the city was attacked by the governor, who, in September, 1790, had fire-pumps constructed for the custom-house, the tobacco factory, and other important places.[47] Various rules for the fighting of fires and the safeguarding of the property rights of those who suffered directly or indirectly by them, were embodied in a *reglamento* of twenty-eight articles.[48] A few years later, during the rule of Viceroy Marquina, numerous fires and the problems resulting from them attracted the attention of the governor. Special provision was made for the appointment of a certain judge to try cases growing out of a conflagration; and a rule was put in force that as soon as the fire-bell rang there should assemble at the palace a company of infantry of the guard regiment, so that in such a time of confusion there might be special protection, not only for the palace, but for the neighboring public buildings. In addition, a subaltern and twenty men and a detachment from the dragoon regiment should be sent to the scene of the fire to preserve order and prevent looting.[49]

Because of the irreparable loss that might very well be occasioned by a great fire getting beyond control, not only to the city proper, but to the general government of New Spain, on account of the presence there of so many public buildings, it is not a matter for surprise that the governor should take so acute an interest in the protection of the city from danger. Nevertheless, many matters of minor detail relating purely to the municipal

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[46] Revilla Gigedo, art. 294. This tax on flour could be collected at the octroi stations at the same time the *alcabala* was collected. Moreover, as the great mass of the people lived upon maize instead of wheat the tax did not bear especially on the poor.

[47] *Ibid.*, art. 298.

[48] *Ibid.*, art. 299.

[49] Marquina, art. 87.

government were not settled by the *ayuntamiento* but were solemnly carried up to the chief executive. The city markets even received considerable attention from Viceroy Revilla Gigedo. He complained on his accession to power that the sale of food stuffs was in an incredibly disordered state. Stalls for the principal markets were first built, and then the corregidor was instructed to draw up a *reglamento* to answer for every market in the city. The duties of the judge of the plazas, *juez de plazas,* usually one of the *regidores*, were defined, and an administrator to care for the lighting and cleaning of the public squares was provided.[50] These measures not only added greatly to the safety and sightliness of the markets,[51] but they increased the city's revenue, as the persons who rented the stalls could afford to pay the increased rental because of the greater security from fire and robbery.

In the same way as the policing and regulating of the public markets were regarded as one of the duties of the governor, the furnishing of the city with an adequate supply of pure water became one of his obligations.[52] In 1789 the arrangements for piping the drinking water to the city were in a bad way. The pipes were nearly ruined and the wastefulness of those who had the privileges of using the water was in itself a great evil.[53] Moreover, much water was wasted before reaching the capital or was used for watering gardens and other purposes, so that not only were great quantities of water diverted from their proper use, but even the streets and roads were at times flooded and seriously damaged. In order to remedy all this, repairs were made in the various conduits and a couple of guards were appointed to patrol the aqueducts so as to warn the *juez de cañerías* of any leaks or breakages.[54] The latter official was expected to prevent individuals from taking more than their rightful share

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50 Revilla Gigedo, art. 302. "... con el auxilio de dos Guardos Ministros á quienes se señaló un particular uniforme ó traje."

51 *Ibid.*, art. 303. "... el buen orden, claridad y seguridad."

52 *Ibid.*, art. 304.

53 *Ibid.*, art. 305.

54 *Ibid.*, art. 306.

of the water, but owing to the fact that the chief offenders were influential persons, "personas mas poderosas y respectables," it was a difficult matter to enforce the various ordinances. It seemed a small matter for the governor to decide whether the pipes should be laid in the center of the street or along the sides, and whether they should be constructed of tiling or of lead, but these matters had to be settled by him. The ten public fountains were remodelled in order to secure a greater economy and better protect the public health.[55]

Even more important than securing the city against the danger of fires or even maintaining a good water supply, was the duty of providing against famines.[56] For a great many years it had been the duty of the authorities to supervise the furnishing of the city with its supply of grain and meat,[57] and the policy of maintaining large reserves of grain and flour as a protection against lean years had become permanent.[58] The public granaries, *alhóndigas* or *pósitos*, were receptacles for storing the grain, but in furnishing bread to the populace use was made of a guild or corporation of bakers. A succinct and authoritative statement regarding this organization was given by Viceroy Marquina in 1803. "The purveyance of bread to this very numerous population may be said to be a monopoly here. It does not follow the ordinary rules of freedom of sale. It is confined to a guild, called that of the bakers, which forms a body or organization, and has the duty of supplying this food of primal necessity. On some occasions it has been questioned if it would not be more convenient if there were no such guild, nor any special number, as there are, of bakeries; but without doubt there would have been insuperable difficulties in doing without them and I am convinced that it has always eliminated the risk of any failure of the bread-supply, which would be most serious in a populous city, if the sale of bread were left free, and there were

[55] Revilla Gigedo, art. 307.

[56] *Ibid.*, art. 308.

[57] Revilla Gigedo, the Elder, art. 82.

[58] Revilla Gigedo, art. 310.

any failure to furnish enough to prevent such a fearful result and its consequences."[59] The difficulties of administering this branch of the government were increased by the general confusion of the business world resulting from the revolutionary and Napoleonic wars.[60] In February, 1797, the crown ordered that the various ordinances for the *pósitos* of Spain be made the basis of the regulations for those of Mexico and the matter was submitted to a junta to be put into shape, but in spite of the efforts of Viceroy Marquina no progress was made. The physical difficulties of collecting the grain in the big cities were considerable, and the financing of the *alhóndigas* was full of complexities. The millers combined to force the bakers to pay a high price for flour, and in the contest which grew out of this, appeal was taken to the governor. The latter interfered to keep down the price of bread, and forbade the millers to deal in grain and force up its price or to do anything but manufacture flour.[61]

The complexity of these problems would seem to forbid the governor's taking care of them intelligently, but he was expected to keep a firm hand on all these regulations, controversies, and decisions affecting public policy.[62] He was expected to be interested in such questions as whether it would be better to manufacture a new kind of bread, "medio entre comun y pan bazo;" to prevent frauds on the part of these various guilds; and to keep an eye on the various public improvements of the city as well. He was expected to study the problem of the fluctuations in the prices of grain, anticipate shortages in the crops, and buy for the state when the market was most favorable.[63] All this presupposes a superhuman talent and activity on the part of the governor, who,

[59] Marquina, art. 80.

[60] *Ibid.*, art. 82. Marquina declares that a combination of the millers and bakers could fix the price of bread to the disadvantage of the public and so constitute a dangerous monopoly.

[61] Revilla Gigedo, art. 316.

[62] *Ibid.*, art. 323. It was evidently the opinion of this viceroy that the business of furnishing flour and bread should not be in the hands of the corporations (*gremios*). If it were thrown open without restriction to general competition, persons of small capital would be encouraged to enter the field.

[63] *Ibid.*, art. 319.

besides other inevitable disqualifications due to overwork and lack of training for the position, was always a foreigner and therefore more or less ignorant of local conditions.

One of the chief branches of the administration of the public food supply was that relating to meat, or *abasto de carne*.[64] It was customary in Mexico for the larger towns and cities to grant the monopoly of furnishing the cities with meat to some person or group of persons, because it was generally believed that so much capital was required for the proper conduct of so large a business that it could not be left to private enterprise and competition among a number of small dealers.[65] The meat supply had to come from a considerable distance and the cities had very generally alienated their public lands so that they could not raise their own animals for slaughter. The contract for this monopoly was sold to the highest bidder by judicial auction. This contract had to be submitted to the viceregal government for approval, though apparently the governor did not have anything else to do with the matter. However, when Revilla Gigedo was governor he did concern himself with the question of the recovery of the land rightfully belonging to the City of Mexico, which had been usurped by private individuals. Likewise it had long been a problem for the governors how to regulate the bull fights, for a very important by-product of bull fighting was the cheap meat afterwards sold to the poorest consumers of animal food.[66]

It would not be worth while to enumerate further the miscellaneous occupations which were forced upon the governor as a result of his being the virtual head of the government of the City of Mexico. It is enough to say that practically all the activities which we now associate with a modern municipality and which are distributed among a great number of different officials and boards, had some connection with the office of the governor.

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[64] Revilla Gigedo, the Elder, art. 12.

[65] Revilla Gigedo, art. 325 and 326.

[66] Marquina, art. 94. Here is to be found an express condemnation of the bull fights. He refused to permit such a way of celebrating his accession to power because, among other things, "of the injuries both moral and political which always originate at bull fights, in spite of the most vigilant care."

The laying out of streets and boulevards, improving the general plan of the city and increasing its regularity in outline, constructing aqueducts, fighting the contraband trade, improving primary education,[67] and seeking to improve the lot of the workingman, were all part of the governor's business, as well as scores of duties not mentioned here. The amount of attention bestowed on these matters by the different governors depended very largely on the vigor and personality of the man, as well as upon the pressure of outside circumstances such as foreign wars and the amount of interference from the home government.

From the well-known propensities of the Spaniard toward paternalism, there need be no surprise that the governor was to look after the morals of the people within his jurisdiction. About the middle of the eighteenth century the population of the viceroyalty was described as forming two general classes, one of the nobility and gentry, of white color, called by the elder Revilla nobles or patricians, and the other, made up of all the various inferior mixed breeds, called the plebeians.[68] The former were grateful to the mother country for all the advantages they had received, past and present, and were actuated by a deep loyalty to the crown. The latter, divided into various castes, were poor, vicious, and for lack of anything to do, much given to laziness. The same authority tells us that the nobility were docile and submissive, and easy to govern "con la suavidad,"[69] while the "plebs" were so "vicious and cowardly" that only a few soldiers were necessary to keep them in order and restrain their excesses. The chief protection against the vulgar mob was to be found in its condition of disunion.[70] It looked to the government for an ample and cheap supply of corn and meat, with bull fights for the chief amusement, *panem et circenses*. Next to the wide prevalence of laziness came theft and drunkenness as the *vicios dominantes* of the common people. The governors were therefore obliged to wage a constant war against highway rob-

[67] Revilla Gigedo, art. 335.

[68] Revilla Gigedo, the Elder, art. 7.

[69] *Ibid.*, art. 5.

[70] *Ibid.*, art. 10.

bery and thieving in its various forms, invoking the aid of the Santa Hermandad with its star chamber procedure.[71]

The increase of drunkenness and the failure of the ordinary preventives brought that evil to the particular attention of the viceroys and governors.[72] Owing to the ease with which *chinguerito* could be manufactured and the lack of other employment for so many people, the secret and illicit manufacture of spirituous liquors had grown to be a great evil. Laws and proclamations were directed against the sale and manufacture of the native brandy, but apparently without result. Even a more potent cause of intoxication was the native wine, or *pulque*, which was not forbidden by law but was even approved of as a medicine.[73] The elder Revilla Gigedo complained that the natives spent more on this beverage than on food stuffs and clothing. Commissions were appointed to cope with the *chinguerito* evil while a like means was adopted to limit and regulate the *pulque* traffic.[74] One governor ordered the places where alcoholic liquors from Castile were sold, to be closed at nine o'clock at night, while extra efforts were made to punish with severity the distillers of *chinguerito*.[75] A more rigid inspection of the *pulquerías* was undertaken with the same general object in view, and judges and other officials were admonished to exert themselves to enforce the law.[76]

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[71] Revilla Gigedo the Elder, art. 14.

[72] *Ibid.*, art. 15. As late as 1791 the problem of the control of the manufacture of spirituous liquors was a pressing one. Revilla Gigedo to the Conde de Lerene, Sept. 26, 1791.

[73] *Ibid.*, art. 16.

[74] *Ibid.*, art. 19.

[75] *Ibid.*, art. 21.

[76] *Ibid.*, art. 357–362. In these articles the viceroy discussed the evils growing out of the liquor business in a way which reminds one of the later attempts at regulation and prohibition in the United States. Complaints had reached the king in Spain regarding the bad influence of the retail liquor business, and the royal order, March 18, 1778, directed that everything possible be done to remedy them. The *alcaldes* were ordered to make frequent visits to the *pulquerías* and to take such measures as "their zeal dictated." A junta, composed of the archbishop, the regent of the *audiencia*, the senior *fiscal*, and the superintendent of the custom house, was appointed to meet with the governor to devise remedies for the saloon evil. Laws against drunkenness were issued and the *pulquerías* were limited to the sale of *pulque* and were not allowed to furnish provisions and other accessories.

The attack which the governors were expected to lead on popular vices was not confined to the liquor traffic. A number of games of chance came under the ban of the law and some attempt was made to restrict them. The same cannot be said of the social evil, toward which the governors maintained an attitude of frigid tolerance. In 1775 the viceroy wrote, "Secret incontinence, here and in all the world, is not to be remedied entirely, and prudent governors content themselves with avoiding publicity, as I have done in my time, banishing and punishing those worst courtesans who give public scandal."[76a] Stricter rules were also drawn up at about the same time to limit the excesses in the Paseo de Jamaica, and a company of cavalry from the palace guard was assigned the duty of patrolling the slum district at night. These facts point quite clearly to the generally unrecognized truth that the Spanish rulers in New Spain were by no means indifferent to the moral well-being of their subjects, however crude their measures may seem at the present day.

The various evils referred to above could not be dealt with adequately by the governors without reference to the question of immigration. It seemed to be a very general belief among the viceroys of the later days of Spanish rule that a great many of the ills afflicting society sprang from an influx of foreigners and that a more careful enforcement of the laws against the undesirable immigrant was necessary. Among the most explicit declarations to be found in the primary material is that of Viceroy Marquina, written in the year 1803. He wrote in his instruction to Iturrigay, that when he first began to inform himself about America, he became persuaded that the laws of the Indies in regard to persons from Europe being admitted to the colonies ought to be put into force rigorously;[77] and that this should apply not only to foreigners, but to those Spaniards who had secured passports or licenses. During his incumbency he became aware of the presence of foreigners by seeing them on the streets of the capital, and became more and more convinced that there was a

[76a] *Ibid.*, art. 24.

[77] Marquina, art. 66.

danger lurking in this non-observance of the laws.[78] Strict orders were thereupon sent to the governor of Vera Cruz, reminding him of his duties in this matter, and ordering him to make every possible effort to check the ingress of all Europeans, particularly those coming from other countries than Spain.[79] Those who were to be admitted were to show whence they came, the motive of their coming, and the proper documents authorizing their voyage. Additional orders were sent to the judicial officers of the cities between Vera Cruz and the City of Mexico to insist that all travelers from Vera Cruz produce passports from the governor of that place.[80] The *alcaldes* of the capital were likewise commanded to coöperate in running down unauthorized persons.[81] Of like import were the remarks of Viceroy Branciforte to his successor Azanza, in 1798, but it does not appear that these efforts at restriction were very successful.[82] They are mentioned here, however, rather as illustrations of the duties of the governor and of the matters of state policy which attracted the attention of the Spanish colonial rulers.[83]

Although the organization of charity and poor relief in Mexico during the Spanish régime was mainly in the hands of the church, there were certain aspects of it which could not be ignored by the state.[84] There is sufficient evidence of the interest taken in this matter by the governor, derived from the *reglamentos* and *instrucciones* of the viceroys, so that a few words are due the subject in this study. The question of poor relief is always as much a matter for statesmen as for philanthropists, and in Mexico especially the question was inseparable from the larger problem of keeping the masses in good order and pro-

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[78] Marquina, art. 67.

[79] *Ibid.*, art. 68. The tumults of the French Revolution were particularly alarming to the Spanish official class, and several documents illustrate the determined efforts of the viceroy to exclude Frenchmen and their revolutionary writings from Mexico.

[80] *Ibid.*, art. 69.

[81] *Ibid.*, art. 70.

[82] *Ibid.*, art. 71.

[83] Branciforte, art. 11.

[84] Marquina, art. 104.

ductively employed. In every large city there was a *hospicio de pobres*, or poorhouse, but the one in the City of Mexico was, of course, the most important. As one of the viceroys said, "The poorhouse might very well be a seminary where many useful trades and occupations might be learned; . . . ." but as a matter of fact, there was not enough money available to hire suitable teachers or to give the proper material equipment.[85] In 1794, there were seven hundred and fifty inmates and the income derived from taxes and gifts amounted to twenty thousand pesos. Much of the work done in the institution was of an inferior kind and almost worthless because of the ignorance or physical weakness of many of the inmates. Nevertheless, it kept a certain number of people off the streets though it was not large enough to solve the problem of mendicity even in the capital, and affairs were not so promising in the provincial towns.[86] The poorhouse of the City of Mexico was in charge of a director, who was subordinate to a committee composed of the archbishop, the regent of the *audiencia*, the dean of the university, two *regidores* of the *ayuntamiento*, the prior of the *consulado*, and the director of the poorhouse. The procurator and the syndic were honorary members without vote, and the *corregidor* had no connection whatever with the institution.[87] With a little better management and more revenue, this *hospicio de pobres* might have been the place to which the children of the foundling asylum were transferred on reaching the proper age.[88] The *casa de expósitos*, or foundling asylum was entirely independent of the governor and was managed by a committee selected from the body of its supporters, the Congregation of Charity. These two charities were the ones which came most under the notice of the civil power and so indirectly to the attention of the governor, but neither was in any sense administered by him.

One of the institutions of New Spain for which there is scarcely a parallel in the United States at the present time was

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[85] Revilla Gigedo, art. 350.

[86] Marquina, art. 105–106.

[87] Revilla Gigedo, art. 351.

[88] *Ibid.*, art. 352.

the *montepío*. The *montepío militar*, which will be described in chapter IV, was exclusively for officers in the army, while the *montepío de oficinas* was for the benefit of the officials in the civil administration. A royal decree of May 10, 1776, ordered the governor of Mexico to report on the desirability of such an institution, its objects being similar to those of a modern mutual life-insurance company.[89] The report was favorable to such an institution, and the royal assent was given February 18, 1784.[90] Persons holding royal commissions with salaries above four hundred pesos a year were admitted.[91] The organization was perfected and dated its official beginning July 1, 1784. Its officials were an accountant, a secretary, a treasurer, an usher, and two other officials.[92] The beneficiaries were the widows and the orphans of the deceased, who received one-fourth of the salary of the deceased at the time of his death.[93] The chief officials were nominated by the viceroy, who apportioned them among the representatives of the various government offices.[94] A similar institution was organized for the benefit of the higher officials of the financial department, and bore the name of the *montepío de ministros*.[95] This was organized in June, 1785, and its general government was the same as that of the *montepío de oficinas*. Still another form of *montepío* was organized in February, 1775, and was under the immediate protection of the viceroy. The official title was *monte de piedad de ánimas*, and its governing body was appointed by the governor.[96] It was an out-and-out charity institution and so differed somewhat from the other forms of *montepíos*. It was founded as the result of a gift of three hundred thousand pesos by the Conde de Regla, for the purpose of lending money on personal property such as

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[89] Revilla Gigedo, art. 1385.
[90] *Ibid.*, art. 1386.
[91] *Ibid.*, art. 1387.
[92] *Ibid.*, art. 1388.
[93] *Ibid.*, art. 1389.
[94] *Ibid.*, art. 1390.
[95] *Ibid.*, art. 1392.
[96] *Ibid.*, art. 1407.

furniture, clothing, and other articles now commonly found in a pawn-shop.[97] This *monte de piedad* did a tremendous business and has remained till modern times one of the great curiosities of the City of Mexico.

Among the many institutions introduced into Mexico from Spain, there was none more characteristic than the *consulado*. The tribunal of the *consulado* became the great law court of the country for the decision of all suits growing out of trade and trade relations, or, in the words of one of the viceroys, "between merchants on account of merchandise."[98] The *consulado* of Mexico was modelled on that of the city of Seville,[99] and its prior and two consuls constituted the court of original jurisdiction in mercantile cases.[100] It had its court of appeals and legal counsels, *asesores*, the latter receiving a considerable salary. The great criticism of the *consulado* was that it held its sessions only at the capital city, which caused obvious disadvantages to the merchants living at a distance.[101] Moreover, the *consulado* strove for the commercial advantage of the City of Mexico to the detriment of other cities in the country, as in the case of the *alcavala* tax, which it sought to have reduced for Mexico but increased in Vera Cruz. It was also true that the tribunal of the *consulado* was less needed in the capital than in almost any other part of the country, because of the presence there of a great number of other high courts. These objections induced the younger Revilla Gigedo to recommend either the complete abolition of the *consulado*, or the establishment of one in every large city. The only advantage of having the *consulado* in the capital was the convenience, not to say necessity, to the government in carrying on certain public works like the canal of Huehuetoca.[102]

The large revenue which the *consulado* enjoyed was derived chiefly from an impost, *avería*, on all goods passing through the

[97] Revilla Gigedo, art. 1408.
[98] *Ibid.*, art. 111.
[99] *Ibid.*, art. 461.
[100] *Ibid.*, art. 462.
[101] *Ibid.*, art. 463.
[102] *Ibid.*, art. 464.

custom-houses of Vera Cruz and Mexico. This impost tended to become higher till it reached one and one-half per cent, and was paid by the consumer in the enhanced selling price of the goods. With these revenues the *consulado* became the great financial institution of the country, and in the absence of banks afforded to the government a most convenient means of tapping the national wealth. It financed great public undertakings, maintained a regiment of militia, and lent money to the king. These extra-commercial activities alone were sufficient in importance to make it one of the great agencies for the government of the viceroyalty, and justify its mention in this place in a study of the viceroy as governor.

Of much less interest to the general historian, though important enough in the social and industrial organization of society in the eighteenth century, were the various craft guilds. The viceroy-governor in 1794 held a rather low opinion of the workmen and trades-unions of Mexico. This was partly attributable to the lack of education of the laborers, but was also due to the organizations of the workingmen.[103] The capital had fifty different *gremios*, each with its own constitution, in the majority of cases dating from the previous century.[104] They tended to monopolize the various branches of industry and in the main did nothing to advance the arts.[105] The viceroy recommended the suppression of some of these unions, but it is notable that he approved of retaining others as the best means of maintaining the proper relations between the masters, the journeymen, and the apprentices.[106]

There is no part of the government of New Spain which has been so inadequately explained or so generally neglected by the secondary historians as that which pertained to the secretariat of the viceroy.[107] The *Secretaría de Cámara del Virreynato,*

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[103] Revilla Gigedo, art. 337.

[104] *Ibid.*, art. 338.

[105] *Ibid.*, art. 339.

[106] *Ibid.*, art. 341. This governor thought that it was footless for the *gremios* to attempt to prescribe the sizes and designs of the fabrics they turned out.

[107] Revilla Gigedo to the Conde de Lerena, Oct. 29, 1791.

as it was referred to in the documents of the time, constituted a most important part of the government mechanism. It was in the secretariat that a great many of the details of actual administration were worked out, and while it would be too much to say that the members of this official body formed the viceroy's cabinet, it may be said that they formed his civil staff. This body of minor but extremely useful officials appears at first as a part of a great bureaucracy, but if this be true it is only so in a peculiar sense of the term. A modern cabinet officer whose tenure of office is not long, is regularly dependent upon his permanent under-secretaries for information and direction, for everything except those changes in policy which are the result of the ebb and flow of party politics. The members of the secretariat were not ordinarily appointees for life or for long periods of time and were not men seeking a career in this employment. They were not, as a body, men of more than mediocre talent and it seems that their importance arose from their part in the working out of the details of exceedingly complicated administrative rules which no one above them in rank could, or cared to, master.

Spanish administrative methods have ever been notorious for a cumbersome procedure resulting from an endless writing and re-writing of rules and regulations governing the minutest details in affairs of government. On its good side these practices made for orderliness, pains-taking methods, definiteness, and a full preservation of records. It was in its very nature opposed to what is careless, and slipshod, and indefinite. In the hands of the average official, however, it proved to be a slow and unwieldly means of getting things done. Masses of papers, made up of reports, opinions, citations of previous law and practice, were likely to accumulate to such an extent that the superior official who was required to examine them in order to reach a conclusion was often taxed to the uttermost in his attempt to master their contents. When it is remembered that the viceroys were military men for the most part unfamiliar with the law and civil procedure and were almost never allowed to remain in office long enough to become thoroughly acquainted with its duties, it is

easy to understand their dependence upon the members of the secretariat.

Our chief sources of information for the history and organization of the Mexican *Secretaría del Cámara* are the reports and correspondence of the second Revilla Gigedo. Soon after his entering office he sought to improve the efficiency of his subordinates in the secretariat, and his report of January 11, 1790, and the accompanying *reglamento* are the leading documents to be consulted. His recommendations were never more than partially adopted, but they afford an admirable view of the problems and difficulties which this ruler had to meet. He begins his report to Secretary Valdez with a pointed reference to the "general epidemic of ineptitude" from which *la primera oficina rel reino* was suffering, and he added a statement on the margin of this document to the effect that the secretary then serving and his predecessors had labored to remedy the evil conditions and without result.

It seems that in the earliest times there was no legal provision for a secretary and that the viceroys supplied this want voluntarily out of their own income. The salary was 1400 pesos and the other expenses of the office were met out of the revenue accruing from vacancies in certain military organizations. This meant that the pay of the under-secretaries and copyists was extremely small and derived from an uncertain source. As the salaries were inadequate the officials were driven to increase their incomes by means at once illicit and undignified. As a result the honor and good name of the viceroys as well as the public service were injured and even state secrets were occasionally sold. Another bad feature was the pernicious rotation in office which every change of viceroy brought about. The chief secretary or *oficial mayor* was expected to hold office indefinitely, but even his salary was drawn as a member of the tribunal of accounts (*tribunal de cuentas*). This false economy led to inefficiency because the *dependientes* were not only underpaid but had no hope of promotion and were ever looking forward to the time when they

might find employment elsewhere. The official records were badly kept and the central archives were in confusion.

The first attempt at a reorganization of the secretariat was made in the first year of the rule of the Marqués de las Amarillas, in 1756. The new arrangements were embodied in the royal *cédula* of August 28, 1757, whereby three salaried positions were created drawing 1500, 1000, and 500 pesos respectively. But already these new provisions were inadequate. The constantly increasing business of these secretaries due to the increasing military establishments, the administration of the tobacco monopoly, and the growing complexity of other departments of public finance drove the later viceroys to make further demands for men and salaries. The Marqués de Croix succeeded in adding two more officials to this department, but in February, 1771, the volume of business had so outrun the office force that the same viceroy was again begging aid from the home government. In January, 1772, and February, 1773, the new viceroy, Bucareli, renewed the demand of his predecessor for a further increase in the personel of the secretariat which resulted in the second reconstitution of that department. This was the one actually in force in the time of Revilla Gigedo and was based upon the royal *cédula* and order of June 19, 1773. This royal *cédula* provided for six officials with salaries ranging from 2000 to 600 pesos, whose duties were primarily the drafting of the various kinds of documents issued from that office. Provision was also made for an *archivero*, or keeper of the archives, and six other functionaries who were to serve without pay and were regularly referred to as *meritorios*. They were expected to have some independent means and to possess the character and talent requisite to promotion and regular salary. The secretary, the six officials, and the archivist were to enjoy such advantages as exemption from the *media anata* and admission to the *monte pío de ministros*.

Some further modifications in the direction of a more generous treatment of this office were secured by Bucareli in February, 1778. Two more *oficiales*, or under-secretaries, were

granted, together with two copyists and a porter. There were now seventeen employees of all grades subordinate to the secretary. By 1790 this number had increased to thirty, and it had been even larger for a while under Viceroy Mayorga. Though this seems a considerable advance over the conditions existing before the secretariat was organized in 1757, yet matters were in a very unsatisfactory condition, as Revilla Gigedo has so clearly set forth. This viceroy was unwilling to continue the employment of the *meritorios*. He considered them satisfactory for some of the government offices, as for instance in the secretariat of the bureau of accounts, but he thought they ought not to be entrusted with the more important and delicate matters relating to the viceroy's own office.

The work of these secretaries or clerks required not only a moderately high degree of intelligence and industry but a special aptitude for finding one's way about in the mazes of previous legislation. The procedure in dealing with an *expediente* is described by Revilla Gigedo as follows:

This minister, either because he has not the necessary information, or because he wishes to protect his office, asks for precedents, or else he submits a report or instruction to other tribunals, magistrates or individuals. These reports are collected in the *archivo de secretaría*, where they are assembled with other *expedientes* which are already in the same office or in the copy rooms of the Government, where they have or have not completed their various processes, and in this manner, months or years pass by before they return to the Fiscal (about the same thing happening with the other *informes*). Because they who have to prepare these *informes* are already over-burdened with the duties of their respective positions, it is necessary that their ordinary work be neglected as much as their importance will permit, and also the additional work required to prepare the extra reports and opinions.

The *expediente* then comes back to the *fiscal* in the form of a first draft, or as a problem to be solved, and if he does not repeat his request, for further instruction, with the delays that it implies, it goes to the *ascesor general* or it is carried to the *Junta Superior de R. H.*, which body is likewise burdened with serious problems of government of divers character, and as this body meets only two days in each week, this work progresses very slowly.

Finally the document or report is verified, and if there results its acceptance as an *ad interim* measure it incurs the new delay arising from the taking of testimony and ultimately from its formulation by the

secretariat according to the contents of those documents, letters or representations with which it is submitted for royal consideration.

These delays are the ordinary ones incident to a clear and easy *expediente*, for when difficulties occur, the trials of the procedure are multiplied. Then arise in the midst of the proceeding new and perplexing points, due to remanding the whole question to some other department for discussion, with the result that interminable debates are precipitated; confusion is produced by the accumulation of useless documents, likewise by the complex of contradictory opinions which cause distrust of the wisdom of the decision which have been arrived at.

I do not mean by this that important matters are decided without the formalities of law, royal order, ordinances, or *reglamentos;* but when these laws declare and determine the point which they raise, and do not prescribe the procedure by which they are put into effect, it seems to me that [these formalities] ought to be waived for the sake of the quickest and best service of the King and the public and out of regard for the principal office of the realm, the laboratory in which are produced the laws which govern this vast empire, binding together all the parts which sustain it.

This is the science which the officials and the secretariat of the viceroyalties ought to study and know. But how can they master it when all their labors are, as I have just said, arduous, crude and tedious?

They draw up the first accurate copy as I pointed out in par. 25. They repeat the same labor in the register book (there is a tedious number of them) relating to this matter, and they make a separate copy which they take to each magistrate for him to state and sign:—"received the *expediente*, marked so and so, No. so and so, Folio so and so," and in the same manner the *oficial de la mesa* writes: "reprinted on such a day, and returned on such a day."

The preparation of these abstracts is prolonged as a result of the involved procedure of the *expediente;* if they require at any stage of their preparation, orders from the king, or viceroy (*órdenes superiores*) there are inserted, copied or abridged (sometimes badly) the petitions or decisions of the magistrates, and if finally the report is made, to the king, the same labor is repeated in the accompanying testimony, which at times obscures essential points or confuses everything by stupidly ordered clauses and conditions. As a result, the secretaries and ministers of state become disgusted and are obliged to ask for a better abstract of testimony, which makes a new operation necessary, postpones royal decisions or suspends them because of the obscurities of the *expedientes* and of the letters themselves, which are apt to end without any enlightening suggestions.[108]

So varied were the duties of the viceroy as governor that it seems futile to attempt any resumé of them. There was scarcely

[108] Revilla Gigedo to Valdez, Jan. 11, 1790.

a governmental function in the realm of civil affairs that was not in a measure dependent on him at some stage of its operation. Though some of the viceroys complained of the diminution of authority which their office had suffered in its later years, it is hard to see what more could be thrust upon their time and attention. They still had extensive judicial powers in spite of the encroachments of the *audiencia*, and the number of executive acts which every governor had to perform in a single year was so large that it is not believable that they could all receive due consideration. Of course, the governor of Mexico, who was also the viceroy, was by far the hardest worked of them all and an entirely different set of conditions was presented to the provincial governors. The governor of California, for instance, though a little potentate in his distant territory, had very simple problems to deal with compared to the governor of a populous district with a large city in addition. From the correspondence between the governors of California and the viceroys it is clear that the former had only petty difficulties to cope with in comparison with the latter. The governors nearly all disappeared after the decree of the intendants was put into effect, but the viceroy was not greatly relieved by the change. The intendency of Mexico was placed under his charge and he fulfilled the same civil duties under a new name.

CHAPTER IV

THE VICEROY AS CAPTAIN-GENERAL

Toward the close of the period of the Spanish rule, all Spanish America was divided into a number of territorial units ruled over by an officer called the captain-general, or by a viceroy whose chief source of authority lay in his power as a captain-general.[1] The attributes of this office were those which gave it a peculiarly Spanish character, and it is perhaps not too much to say that it was the most characteristic of all the positions of trust and profit in Spain's system of colonial administration. Other nations have had their viceroys and other officials who had their Spanish counterparts in the various subordinate ranks, but the captain-general was so distinctly an Iberian institution that the title would seem out of place in an English, French, or Dutch colony. From Chile and the extreme south to Mexico and Cuba on the north, the whole of Spanish America was divided, not into viceroyalties or provinces, but captaincies-general, and the rulers of these districts had the all-important duty of maintaining the authority of the Spanish crown by the ultimate logic of military force. From some points of view it was a purely incidental matter whether or not certain of these captains-general were further dignified by the title of viceroy. It was the military command, the *imperium*, that in the last analysis held down the subject native population, preserved order among the Spaniards

[1] The office of captain-general, like practically all other titles, civil, military or ecclesiastical, found in the colonies, was transplanted thither from Spain, and the two officers originally had the same duties attached to them whether in Europe or America. As a strictly military office the grade of captain-general was, in the words of Desdevises du Dézert, the highest in the whole military hierarchy and the military governors of the most important provinces in Spain took that title, by courtesy as it were, whatever their real rank may have been. The following Spanish provinces had captains general in 1808: Aragon, Catalonia, Valencia, Majorca, Granada, Andalusia, Estremadura, Old Castile, and Galicia. See Desdevises du Dézert, ii, 133-134.

themselves, and defended those most tempting regions from the foreign enemy.

It is not difficult to see how the viceroy of New Spain derived most of his importance from the fact that he was captain-general, as well as being governor and head of the ecclesiastical establishment as vice-patron. In the sixteenth century it was scarcely possible to make any distinction whatever between the early conquerors and those who succeeded them as the normal chiefs of the army under another title. From the very beginning the military aspect of things was pre-eminent in the Spanish colonies. After the first conquests were completed and the work of Cortés, Pizarro, Almagro, and Valdivia was over, there succeeded a period of turbulence which required the presence of a soldier in authority. After the Spaniards were once definitely in the saddle and the period of danger from buccaneers had been weathered, the combination of military traditions with the constant fear of the English and Dutch prevented the evolution in America of the essentially civilian, or English, type of viceroy. As Villarroel said, the military functions of the viceroy were from the beginning the most important, and he might have added that this primordial condition was never outgrown.

No more striking contrast between the Spanish and English ways of governing dependencies could be offered than in the divergent development of the chief executive office in the colonies of these two peoples in America. On the eve of Spanish-American independence the captain-general as the representative of the military side of the administration was, if anything, gaining at the expense of the governor and his civil functions; that is, the viceroy was becoming more and more exclusively a military ruler.[2] In direct opposition to this was quite another tendency observ-

[2] Greene, pp. 188–192. The account given in these four pages of the encroachments of the American provincial assemblies on the miltiary powers of the governor is brief, but clear and trustworthy. I am not aware of anything analogous for Spanish America. An examination of the *instrucciones* of the Spanish viceroys and a comparison of the earliest ones with the latest, would shew a striking growth in the amount of space devoted to the department of the captain-general. For example, compare the *instrucción* of Antonio de Mendoza, *circa* 1544, with that of Marquina, 1803.

able in the evolution of the English provincial governor. As a result of the steady encroachments of the provincial assemblies upon the powers of the royal governors, even the control over the colonial forces was taken from them, at least in a very large measure, so that the legislative committees and other agents of the assemblies took the actual direction of the forces against the Indians, becoming responsible at times even for the discipline of the troops. Thus it was that a governor of Virginia in the middle of the eighteenth century had practically lost all semblance of a military character, while Governor Dinwiddie's contemporary, Revilla Gigedo, the Elder, was primarily a captain-general and afterwards a governor. These facts explain the condition referred to in chapter I, namely, that only military men and, as it turned out in most cases, those woefully deficient in experience or natural aptitude for civil administration, could aspire to the head of a viceroyalty, while in the English colonies the chances of a mere soldier for the governor's post were increasingly slight.

Another evidence of the importance of the viceroy's position as captain-general may be inferred correctly from the controversy in regard to the succession to these duties when a viceroy died without a *pliego de providencia*. There could be no difficulty in allowing the *audiencia* to take over the duties of the governor as well as those of the vice-patron when the vice-regal office was vacated, but such a post as that of commander-in-chief could not be turned over lightly to a cumbersome body of inexperienced civilians. It was with the utmost concern that Revilla Gigedo, in 1789, contested this whole question along with that of the military honors to the archbishop, fairly importuning the crown to allow a military officer to have control of the troops while the *audiencia* had charge of all other matters during the *ad interim* government.[3] Certain aspects of this question were

[3] Revilla Gigedo, art. 516–522. From these articles it is easy to perceive what peculiar importance the viceroy attached to his military office. He would have much preferred to have the command of the troops fall upon the subinspector-general or the commandant of Vera Cruz than upon the *audiencia*. Revilla Gigedo to Valdez, Jan. 8, 1794.

discussed in chapter II, illustrating the way the king interfered in the affairs of the viceroyalty, but it is again mentioned here as throwing light upon the relative importance of the civil and military authority in Mexico. The viceroy was particularly opposed to any diminution of what he regarded as his "función primitiva," and that explains his energetic expression of the views regarding the succession to his command.

In the opinion of one of the ablest of viceroys,[4] by the last decade of the eighteenth century the powers which belonged to him as captain-general were not only more distinctive, but more important than those which he possessed as governor, as vice-patron, or as superintendent-general of the *real hacienda*. In the language of the *Instrucción Reservada*, they were "of an order much superior and much more extensive than any other."[5] It was claimed, furthermore, and this is an interesting argument for centralization, that this greater authority had led to a much more efficient administration. Though it would have been better if the military department of Yucatán[6] had been directly under the control of the viceroy, as were the departments of justice and *hacienda*, yet there had been such a centralization of power in the hands of the captain-general that he had been able to administer the *ramo militar* much more successfully than the other branches. According to Revilla Gigedo, "That authority which is commonly believed to reside in the viceroy, to enable him to secure peace and good order in these dominions, would have produced much better results if it had extended to all branches of the government as well as the military, and this is proved by the amount of progress and reform in the time of my command in the army and in the great economies secured in the reforms of the militia, in contrast with the slight progress secured in the administration of justice and the political side of the government."[7]

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[4] Revilla Gigedo, art. 512–513.

[5] *Ibid.*, art. 512.

[6] *Ibid.*, art. 513.

[7] *Ibid.*, art. 514.

It is not easy to make clear the military administration of New Spain. There did not exist a minister or secretary of war, nor indeed a war department, in any modern sense. There was, of course, no Mexican legislature to provide for the necessary revenue and for the enlistment and provisioning of the troops. All legislation dealing with such matters emanated from Spain, as did that for every other department of the government. There was a certain simplicity in this arrangement, but in the matter of the administration of these laws there are all but insuperable difficulties to our understanding of it.

The viceroy as captain-general was, of course, the commander-in-chief and also in some respects the civil head of the army, though by no means a regular secretary of war. In time of war he was assisted by a council of military men, *consejo supremo de guerra,* something akin to an American board of strategy. In times of peace and under normal conditions, the troops stationed outside the province of Mexico were taken care of by the intendants[8] and those inside this province were under the eye of the captain-general and under his direct control. There was no regularly organized general staff to assist him, though he had a few aides and orderlies, and a few officers at large which he might summon for advice, and if he chose, send on special missions anywhere in the viceroyalty. It was the intention of the crown to keep eight engineer officers, *oficiales de ingenieros,* in New Spain, but the Viceroy Marquina complained, in 1803, that only four were actually available.[9] These were employed on miscellaneous duties but could be regarded as a part of the viceroy's staff.

The first assistant to the captain-general and the highest officer who devoted himself exclusively to military affairs, was the subinspector-general,[10] an appointee of the crown and in

[8] The duties of the intendants will be discussed in considerable detail in a later chapter.

[9] Marquina, art. 158.

[10] Revilla Gigedo, art. 515. Here the viceroy argues that, in spite of the excellent service of his subinspector, the office ought to be filled in the future by one of the lieutenants of the king, who ought to be appointed in Mexico.

some ways a check upon his nominal superior in Mexico. His title, subinspector, implied that he was a subordinate of the inspector-general in Spain,[11] but he seemed to have worked in harmony with the viceroys and without such conflicts as the latter had with the *audiencia*. At any rate, in the various viceregal instructions it is made apparent that many of the suggestions for reform in the military institutions of New Spain came from the subinspector-generals and that the responsibility for carrying out such reforms was generally committed to them also. General Francisco Crespo prepared a complete scheme for the reorganization of the military forces of the viceroyalty, and this was accepted by the crown October 20, 1788, not indeed *in toto*, but with rather unimportant modifications. A few years before this, during the rule of Viceroy Cruillas, when a number of military reforms were put through, it was another subinspector, General Villalba, who was sent over to superintend them. These facts are mentioned in this connection to show the importance of the subinspector, who was the nearest approach to a chief of staff that the viceroy had. After the dispute between Villalba and Cruillas had been settled in favor of the latter and it was definitely settled that the subinspector was after all directly subordinate to the viceroy, it was evident that the Spaniards really took an intermediate position on the general question of the degree of control over the military which should be conceded to the colonial authorities. King Charles III did not allow the subinspector-generalship to become such an office as

[11] There seemed to have been some difference of opinion among the viceroys themselves regarding the advantages to be derived from having a special officer for the post of subinspector-general. For the sake of economy the younger Revilla Gigedo recommended that the duties of this office be given to one of the generals in the Mexican service and this suggestion was apparently acted upon, for Marquina is found arguing for the reestablishment of the office in 1803. "I have given an idea of my unalterable opinion, previously, regarding the importance of having a subinspector-general for this kingdom. I gave this opinion in a letter to the King of July 27, 1800, to which reply was made, November 28, that it was not necessary, because the *comandancias de brigada* had been created." Marquina still persisted in his demands for an inspector, but he was relieved of his position before anything was done. Revilla Gigedo, art. 515, and Marquina, art. 285-287.

is now held by the commander-in-chief in India, nor did he send over generals from Spain to monopolize the command of the troops as the English government did in North America.[12] On the other hand, the military powers of the captain-general were not quite as absolute as those of the French viceroys in Canada.

The organization of the Spanish forces in Mexico reached practically a complete form at the end of the eighteenth century, during the rule of Viceroys Azanza and Marquina. Before the middle of the eighteenth century there was scarcely any organization worth mentioning, so small was the armed force maintained in New Spain, consisting of only a few companies of militia and even fewer regulars. The early Spanish conquerors were not really regulars at all, but only bands of adventurers led by some captains with very indefinite commissions from the king. During the seventeenth century but few soldiers were necessary to hold down the native population, therefore the bulk of the disciplined troops were stationed at the coast towns to keep off the buccaneers. The inroads made during the seventeenth century upon Spain's American dominions did not lead to any notable increase in the army of New Spain. The presence of the English in Jamaica and of the Dutch in Curacao was disturbing enough in its way, but did not call for a great

[12] On the face of it, it would seem as though the abolition of the office of subinspector would have considerably increased the power of the captain-general by removing a possible rival. Marquina, however, possibly because he was a naval officer and therefore felt more keenly the need of a powerful military chief of staff, could not approve of the alternative scheme then in force. "De contado no me detengo en asegurar que mal podrán los diez comandantes de brigada suplir la falta de subinspector, aun cuando ejerzan sus funciones, si se atiende solo á la dificultad, ó mas bien, imposibilidad que debe haber para que tantos gefes concuerden en el modo pensar; y esto siempre pondrá al Virey en la perplejidad que es consiguiente á la variedad de opiniones de sugetos situados á mucha distancia entre sí, resultando un nuevo y extraordinario trabajo para la combinacion de los pensamientos, y para discernir despues y decidirse por el mejor y más acertado; y aun cuando se quisiese no hacer caso de esta reflexion, no puede prescindirse de que los Cuerpos veteranos no reconocen en el dia otro inspector que al Virey, y de que no habrá quién en su interior se lisonjée de poder llenar á un tiempo ambos encargos con la propiedad y exactitud que exigen. V. E. verá cuando guste lo que he representado, y sobre todo tocará en breve la realidad y fundamento de mis reflexiones." Marquina, art. 287.

increase of the land forces in the Spanish colonies. The struggle of the maritime powers, France and England, in the next century, with the overwhelming victory of the latter, made a change for the worse as far as Spain was concerned, and the building up of a British colonial empire bordering on Florida and the West Indies presented a new and dangerous problem. After the experiences of the Seven Years' War, Spain realized the possibilities of serious trouble from the English, who had taken Manila and Havana in 1762, and had generally terrorized the Spanish-American coasts. Accordingly, in 1768, several regiments were sent over from Spain for the defense of Mexico and the West Indies. It was at this time that the office of sub-inspector was given additional importance and was conferred upon the Marqués de Rubí. During the next few years these seven Spanish regiments were sent back home; nevertheless, from this time till the end of the Spanish rule the viceregal government retained a more decided military character.[13] It was, then, the danger of foreign war and aggressions from the English in particular, that gave a new prominence to the office of captain-general between the years 1760 and 1810.

Before examining the actual composition of the army of New Spain at the close of the reign of Charles III, it must be made clear that the crown never attempted to maintain regularly a standing army of royal troops in Mexico, as most European nations did in their colonies and as the English still do in India. The military forces of New Spain were, with the exception of a few officers, recruited in the country and their maintenance was charged against the Mexican treasury. From a military point of view the viceroyalty was intended to be self-supporting, though in case of war or emergency aid from Europe could of course be counted upon. It could never be asserted by the Spaniards that their colonies had been a drain on their military resources in any serious way, and it was not till the war of inde-

[13] Bancroft, *History of Mexico*, iii, 405. The British establishments in Honduras were a constant source of anxiety to Spain. Branciforte to Paz, May 31, 1797.

pendence that there was any occasion for the transportation of troops to America on a large scale, except for the regiments referred to above.

With the exception of the very unusual appearance of European regiments in New Spain in time of war and of a comparatively small number of officers taken from the regular home army for the colonial service, the white men in the Mexican army were creoles. It was the policy of the crown to limit the total number of effective forces in New Spain, but to encourage the enlistment of recruits of all the different colors represented in the Mexican population. Besides the organizations composed exclusively of whites, there were some made up partly of whites and partly of *mestizos;* there were companies made up of *mestizos* alone, with white officers; and there were even several companies of black freedmen, both among the regulars and the militia. Whether the racially miscellaneous character of the Mexican army was due to a desire on the part of the home government not to have it too closely united by an *esprit de corps,* or to the necessity merely of employing in the army anybody who could be induced to enlist, is not clear, but there is ample evidence that the Madrid government was extremely jealous of the provincial troops. Their numbers were not allowed to reach large proportions at any time, though that cannot be charged to opposition from Spain so much as to the inability to get sufficient funds.[14] Viceroy Branciforte was undoubtedly in favor of a larger force in his territory but, as he complains,[15] he was obliged during the two years and eight months of his rule to send away in subsidies on the king's account thirty-two millions of pesos. Such a sum of money as this implied that little or nothing could be done in the way of a comprehensive reorganization of the troops on a peace footing. He even went so far as to state that he did not

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[14] Bancroft, *History of Mexico,* iii, 407, note 17.

[15] Branciforte, art. 23. "Es constante que en los dos años y poco mas de ocho meses de mi gobierno en estos dominios, han salido de ellos, por Veracruz y Acapulco, para Europa, Asia, islas de Barlovento, Luisiana, Florida y provincia de Yucatan, treinte y dos millones de pesos por quenta del Rey."

have enough men under his command to put down popular tumults in a country so large as the one he was called upon to rule over.[16]

The various authorities seem unable to agree upon the number of troops actually with the colors.[17] It is possible that no one knew how many there were, though Bancroft claims to know that there were only 4700 regulars between 1789 and 1794.[18] Yet Revilla Gigedo in his instructions to Branciforte claimed that there were more than twice as many. In 1789 the whole army exclusive of the militia and irregulars amounted on paper to about 5600 men.[19] Another authority, cited by Bancroft in a footnote, declared that the total force of all arms, and of all grades of discipline and effectiveness, amounted to over 29,600 men.[20] Within these wide fluctuations there is little use of attempting to fix any definite figures, but it is obvious enough that the whole military establishment was on a small scale compared with the population and even the wealth of the country. The isolation and natural position of Mexico were its chief defences, as at that time its land frontiers were still too far from the English-speaking peoples to the northeast, and its seacoast was so unhealthful as to discourage an invasion from that direction.

In 1789 the regular army was composed of the following units: four regiments of infantry; two companies called the

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[16] Branciforte, art. 12. "... cuando reducidas á la menor expresion las fuerzas de este ejército, no eran suficientes para contener alborotos populares en un reino tan vasto como el de Nueva España."

[17] In the correspondence of Branciforte with his successor, Azanza, is found a document giving in tabular form the composition of the army of New Spain in the spring of 1798. The total force amounted to 31,594 men, distributed as follows: 25,502 in the Army of Occupation; 5,504 in cantonments; 4,816 in garrison; 2,120 at posts not fortified; and 20,819 in the provinces and at home. As some of these figures are mutually inclusive they are very confusing, but two facts may be gleaned from them. The first is that the total armed force of the country was 31,594; and the other, that the field army numbered 25,502.

[18] Bancroft, *History of Mexico*, iii, 407.

[19] Revilla Gigedo, art. 565. "Cotejada la fuerza que debia tener este ejército de tropa veterana, cuando yo entré en el mando, con el que debe tener en el dia, resulta un aumento de quinientas noventa y siete plazas efectivas, pues entonces era su total fuerza de cinco mil seiscientas tres."

[20] Bancroft, *History of Mexico*, iii, 414, note 35.

Volunteers of Catalonia; and three fixed companies, stationed at Acapulco, San Blas, and the Presidio del Carmen; two companies of artillery of a hundred and twenty-five men each; two regiments of dragoons; and two troops, also of dragoons, stationed at the Presidio del Carmen.[21] One of the regiments was scarcely more than a *cadre*, and none of the organizations had the full complement of men. As it was hard on any body of troops to be stationed long at such places as Vera Cruz and Acapulco, on account of the climate and the generally unhealthful conditions, therefore it was proposed, in November, 1789, to create another company of artillery. This one was designed to relieve the other two by turns at the unhealthful posts and also to act as a sort of extra force, in cases of emergency. All this was approved by the crown and soon went into effect, along with a number of other minor changes necessitated by the outbreak of war. Among these changes was the sending of a couple of the regiments of infantry to Havana.[22] To make up for the lost services of these regiments, a "fixed," or garrison company, *compañía fija*, was raised for the fortress and city of Vera Cruz, and more attention began to be bestowed upon the various means of making the militia more numerous and efficient.

It is needless to say that with a regular army no larger than the one described above and so widely scattered over a large area, it was impossible to have any further organization into larger units. A regiment in the Spanish army was, as elsewhere in Europe, the administrative unit. The new system of grouping together regiments into brigades and brigades into divisions, with two or more divisions united to form an army corps, was not yet (*circa*, 1794) the practice in Europe; consequently such a thing was not to be thought of with the meager forces in New Spain. Before the century was over, the whole viceroyalty was divided into ten divisions or departments, each commanded by a briga-

[21] Revilla Gigedo, art. 542.

[22] *Ibid.*, art. 561. "The same circumstances [the outbreak of war] required the dispatching, first of the regiment of Nueva España and afterwards that of Mexico to Havana, and in consequence of that, the creation of the new *batallón fijo* of Vera Cruz."

dier, *comandante de brigada*, each brigadier acting as inspector-general in his own circumscription, but this was as far as any higher organization of the troops went.[23]

The amount of care given by the home government and the viceroys to the organization of the militia would seem to indicate that in the absence of a large standing army this reserve must be the ultimate dependence in case of war. To be sure, it had not yet attained to a very high degree of efficiency by the end of the eighteenth century, and Revilla Gigedo went so far as to say that in case of serious foreign invasion veteran Spanish troops would be necessary to defend the country. Nevertheless, the reorganization of the reserve force was pushed vigorously and the more important of the viceregal instructions are full of plans and comments on the various schemes. It need surprise no one that an officer trained in the regular Spanish army should have held slightly contemptuous views of the colonial militia. The English generals, before and after Braddock, were not entirely enthusiastic over the colonials they sometimes had to command, even on campaigns against the Indians, where the militia and volunteers appeared to the best advantage, and a similar prejudice was to be expected among the captains-general with regard to their non-regular soldiers. However, after making all allowance for bias in our historical sources, the records must be understood to condemn the Mexican militia as untrained and ill-equipped.

It would seem impossible to devise a plan of military organization which should be quite as difficult to understand as the organization of the Mexican militia described in the various instructions of the viceroys. The following statement is an attempt to disentangle the main facts from the confused accounts in

[23] Marquina, art. 257. The real meaning of the Spanish word *brigada* must not be confused with our brigade. Like their word *compania*, which is not the English company, *brigada* was used in the general sense of organization or unit, and apparently did not mean a body of troops of a definite number. The following use of the word in the instruction to Branciforte illustrates my point: " . . . pero como siempre hay allí una brigada ó destacamento de artillería, que es de 28 hombres . . ." Revilla Gigedo, art. 554. Also Revilla Gigedo to Conde del Campo de Allange, August 2, 1791.

the primary material, and the starting point must be that plan submitted by subinspector Crespo, in 1778. This plan called for four complete regiments of infantry, four separate batallions, two corps of grenadiers and light infantry, *granadores y cazadores*, all of which were to be Caucasians; two batallions of colored troops, and fifty companies of coast guards. There were also to be one hundred and thirty-four companies scattered through the interior provinces. Then there were six complete regiments of cavalry, a squadron of lancers at Vera Cruz, and a regiment of infantry, called the city commercial regiment, and another squadron of cavalry for the City of Mexico. This whole force was to number 35,643 men and was to be maintained at an annual charge of a little over three hundred thousand pesos.[24]

Each of the regiments was to have a colonel, two lieutenant-colonels, one commandant, twelve sergeant-majors, four commanders of divisions and brigades, two subinspectors of colored troops, thirty-nine adjutants, and sixty lieutenants, a total of one hundred and twenty-two commissioned officers and more than four hundred sergeants, corporals, musicians, and others. These officers were, of course, to be veterans, and it was expected that this reorganization would result in a great gain in efficiency. However, the objection to it was that it would be too expensive,[25] and on the recommendation of the younger Revilla Gigedo a modification of Crespo's scheme, which will be explained presently, was adopted. The adoption of this modification resulted in a saving to the treasury of nearly two hundred and forty thousand pesos, but this was obtained only at a reduction of the total force from about thirty-five thousand to about twenty thousand men.

In the opinion of the viceroy it was not possible to raise a larger force without too great a drain upon the country, and furthermore, he did not believe that it would be possible to use

[24] Revilla Gigedo, art. 661. See also Humboldt, vol. 1, book ii, chap. 14, for a discussion of the Mexican militia.

[25] *Ibid.*, art. 662. Besides the cost involved in the Crespo scheme, there was the further objection that it would draw too many men from peaceful occupations and furnish more militia than the captain-general would know what to do with. This was discovered by a census, or *padrón*, one of the innovations of Revilla Gigedo.

more than a certain number of militia anyway. If a serious danger came, he believed that the main reliance must be placed upon the regular forces and regiments from Europe, and that the militia would be useful only when they were not permitted to constitute more than a certain proportion of all the national forces.[26] In other words, he did not think it good policy to spend large sums of money on an indefinite expansion of the native forces. Branciforte, though holding no very high opinion of the militia, inclined to the view that the peace footing as established by Revilla Gigedo was not on a generous scale.[27]

The modified plan which was finally adopted left the militia forces divided into the main groups the description of which follows. To simplify the matter a classification of these troops will be given along lines slightly different from what is usually found in the documents. What may be called group number one, was composed of the poorest troops in the viceroyalty, namely, the various separate companies, *compañías sueltas,* assigned to guarding the coasts. The second group was composed of the provincial militia distributed throughout the interior districts. The third group was made up of what might be called the "crack" organizations of the country, those organizations stationed in the important cities, such as Mexico, Puebla, and Vera Cruz.

The most vulnerable point of New Spain, the part most exposed to foreign attacks when practically the only enemy was the maritime power of Great Britain, was the coast of the Gulf of Mexico. In the early days this part of the country had been liable to attacks from buccaneers, and it was now recognized that in spite of the heat and fever along the coast, an English invasion

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[26] Revilla Gigedo, art. 663. " . . . pues en un caso de guerra, se necesita siempre contar conque vengan regimientos europeas y con la tropa veterana, y solo seran utiles las milicias, teniendo con ellas la debida proporcion."

[27] Branciforte, art. 13. Though there had been no serious uprising of the natives in New Spain, it is not unlikely that Branciforte was affected somewhat by what he knew of the civil war in the Peninsula, which occurred about ten years before. The revolt of Tupac Amaru took place in 1781, and taxed the resources of the viceroy of Peru to the uttermost

must be prepared against. Every plan for organizing the militia had taken this into consideration, and the wars of the French Revolution had made such precautions particularly necessary. In the spring and summer of 1793 the following steps were taken to put the Gulf coast in a suitable posture for defense:

The coast on both sides of Vera Cruz was divided into four districts, the southernmost reaching to the province of Tabasco and the northernmost reaching to the river Pánuco and the city of Tampico. Throughout this region the old-fashioned militia companies were reorganized, some being suppressed and others being augmented, while all were put in shape for the approaching war. Out of the thirty-two original companies, some of them mostly on paper, twenty-two new ones were created with a total effective force of over twenty-two hundred men.[28] These new companies were composed of both infantry and lancers, and were divided among the four divisions. Skilled veteran officers of the rank of captain were placed at the head of three divisions to take the place of the "*comandantes accidentales*," men of little intelligence and inept in everything.

Although the southern and western coasts of Mexico were not exposed to the same dangers of invasion as those on the north and east, they could not be left without some provision for their defense.[29] It was decided to take such measures in regard to them as would prepare the Spaniards for all eventualities. Special commissioners were sent to examine all the harbors, bays, and places suitable for anchorage, and to report to the viceroy what they thought should be done. The great number of antiquated militia organizations (there were eighty-three different companies making claims to existence), were reduced in numbers

[28] Revilla Gigedo, art. 605. The total number of the militia in these four divisions, as stated above in the text, is given on the authority of the Viceroy Revilla Gigedo. There is some discrepancy in his estimates for the total number of troops in the viceroyalty when compared with those of Branciforte. In such cases I am not able to say which is the more reliable, as both were doubtless tempted to distort the facts slightly, the outgoing viceroy to exaggerate the number of troops he turned over to his successor and the latter to underestimate their number.

[29] Revilla Gigedo, art. 616.

and reorganized, leaving out the Indians using bows and arrows, but there still remained companies with few more than twenty-five men.[30]

According to this new arrangement five divisions were provided for, similar to the four divisions on the Gulf coast. The first was composed of eight companies of non-white soldiers and one company of Spaniards, and its district was the coast south of Mazatlan and southwest of Zacatecas. There were six hundred and eighty men in this division with a captain for its commander.[31] The second division, stationed just south of the first, along the coast to the southwest of Guadalajara, had eleven companies of infantry and lancers, non-white, and two troops of Spanish cavalry, with a total number of eleven hundred and forty men. The headquarters of this division were at Colima.[32] The third division was that of Acapulco, commanded by the commandant of that place, and composed of three companies of *pardos*, three hundred in number.[33] The fourth and fifth divisions were similarly organized and were placed so as to defend the coast between Acapulco and Tehuantepec.

To facilitate communications between these various headquarters and to observe the first approach of an enemy, twelve lookout stations were scattered along between the divisions. This entire force numbered over thirty-five hundred men, and though its effectiveness was never put to a test by an invader, its presence gave a sense of security to the whole Pacific coast region.[34]

The second group into which it is convenient to divide the whole Mexican militia was made up of divers organizations not included in those just mentioned, nor among those stationed in the large cities. Throughout the interior of the viceroyalty there were lists drawn up of all persons qualified to serve, according to the ratio of one soldier to every fifteen families of pure blood,

[30] Revilla Gigeda, art. 617.
[31] *Ibid.*, art. 618.
[32] *Ibid.*, art. 619.
[33] *Ibid.*, art. 620.
[34] *Ibid.*, art. 621–622.

casta limpia.[35] The companies thus enlisted were grouped so as to form sixteen divisions throughout the whole country. These divisions were not of equal size, numerically, but depended on the extent of the various districts and the density of the population.[36]

There would be no advantage in describing each one of these various divisions, or even locating the separate districts on the map; therefore one will be taken as typical of all. This first division comprised the districts to the south of a line drawn between Puebla and Vera Cruz, and was composed of nine companies with a total force of seven hundred men.[37] Many of these divisions had only three or four companies with three or four hundred men, and to believe that any of them attained to a very high degree of efficiency would require an exercise of faith.[38]

The third group in the division of the Mexican militia was undoubtedly composed of the best troops of the country, and many of the organizations had an interesting and separate history. The city of Guanajuato had a battalion of infantry made up of one company of grenadiers and four companies of fusiliers with an extra company, or troop, of cavalry.[39] This force was employed not only as the garrison of the city but also as a sort of police for the surrounding country. In the city of Puebla was a company made up exclusively of bakers, butchers, and tanners, the mounts being furnished by those guilds and the other equipment by the government. In the same city was also a *regimiento del comercio,* founded in 1742, and organized in imitation of the similar but more famous regiment of the capital city. This regiment had only four companies, with two hundred and twenty-

[35] Revilla Gigedo, art. 628.

[36] *Ibid.*, art. 629.

[37] *Ibid.*, art. 630.

[38] Branciforte, art. 47. "The uniforms and mounts have been furnished completely and of good quality; but the fire-arms and swords had been supplied provisionally from the old collections which were in the royal armories, with the obligation of furnishing new ones when they arrived from Spain . . . ."

[39] Revilla Gigedo, art. 627.

eight men, but it had all the attachments for parade and ceremony, each company having six grenadiers to act as color escort.[40]

The most famous of all the militia units was the *Regimiento Urbano del Comercio de México,* dating from the seventeenth century.[41] It was customary for every organization to have its own constitution, but this regiment did not receive its *arreglo* until the fall of 1793. In 1790 the subinspector-general reviewed this regiment and the next year reported to the viceroy that it had six hundred and eight men distributed among two companies of grenadiers and eight companies of fusiliers, the companies being of unequal size. The grenadier companies were evidently the *corps d' élite* and were made up of men of wealth and social position, "the best men of New Spain," according to Viceroy Branciforte, writing in 1797.[42] The fusiliers, however, were evidently a sorry lot. They were almost all mercenaries, very unprepossessing, both as regards color and physique. Had it not been for the fairly good appearance of the grenadiers, the review might have passed as a ridiculous military farce, "*por una farsa militar ridicula.*" After the review the subinspector gave the regiment a good overhauling, removing among other things the abuse of allowing a member of the *consulado* to hire a mercenary to act as his substitute in the regiment, while he, the merchant, enjoyed the *fuero militar,* with all the exemptions which that implied.[43]

This account of the Mexican militia, though it may seem sufficiently long-drawn-out already, is only a general sketch which leaves out a great many separate organizations and even classes

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[40] Revilla Gigedo, art. 614.

[41] *Ibid.*, art. 610, 611, 612, *et seq.* Later on the *consulado* of Mexico asked to be relieved of the duty of keeping up this regiment. The regiment contained over a thousand men in September, 1793. An earlier reference to this matter is found in the letter of Matias Galvez to José Galvez, Nov. 30, 1782.

[42] Branciforte, art. 40.

[43] It was finally decided by the crown that the privileges of the *fuero militar* could be enjoyed by persons in the militia only when they were actually serving with the colors.

of organizations. The authorities speak of various mixed companies, black companies, and companies of varying shades of color, to say nothing of the different kinds of equipment and maintenance. The military organization of the interior provinces, which meant the districts along the northern land frontier exposed to the attacks of Indians, was separate from that of the rest of the viceroyalty.[44] The *comandante general* of the Provincias Internas was independent of the viceroy in strictly military affairs, but there was a general tendency to abandon the different special corps on the other Indian frontiers.[45] All the infantry companies in the district of Colotlan were given up and only a few dragoons remained in their stead. For a long while there had been no little controversy over the utility of the militia along the Sierra Gorda; though they were not all entirely abandoned, they were reduced in numbers and those corps which had acted as a special frontier police were withdrawn.[46]

The distribution of all the troops mentioned in the foregoing paragraphs can, of course, be considered only in connection with the purposes which they were designed to fill. The forces in the Provincias Internas and along the land frontiers were primarily for defence against the natives, while the various urban regiments and companies and the various organizations scattered throughout the settled parts of the interior,[47] (the two classes forming the great majority of the militia) were to preserve internal order and to act as a reserve in case of foreign invasion. The troops which were specifically designed to repel, if possible, foreign invasion, were placed in certain fortresses commanding the means of ingress into the country.

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[44] Revilla Gigedo, art 719 *et seq.* The question of the administration of the Provinceas Internas was a very delicate one for the viceroys. Revilla Gigedo bitterly resented the independence of these northern frontier states and he argued at great length against their separation from the rest of the viceroyalty. The constant dangers from the warlike Indians in those regions seemed to require the attention of a military man on the spot and so the crown decided against the viceroy.

[45] Marquina, art. 290.

[46] Branciforte, art. 35. This viceroy was disposed to keep up with the militia forces that were stationed along the Sierra Gorda and Colotlan.

[47] *Ibid.*, art. 38. Also Branciforte to Alvarez, June 30, 1797.

Foremost among these fortified places were Vera Cruz at the eastern gateway of New Spain, and Acapulco at the western, with an interior fortress at Perote to serve as a rallying place between Mexico City and the Gulf in case Vera Cruz were captured. The fortress of Vera Cruz really consisted of two distinct places, but as both were close together and commanded the eastern terminus of the Mexico–Vera Cruz highway, they may be considered together. The first, on a small island lying right before the harbor of Vera Cruz, was the well known castle of San Juan de Ulúa. In the year 1789 it was defended by two hundred and thirty-six pieces of artillery. Some of these were out of order, so that the total number of cannon of all calibers, together with the mortars, was something like three hundred pieces.[48] About this time it was the opinion of the commandant that a great many of these were only of moderate utility and that practically all the brass cannon, though in a good enough state of preservation, were of such an old make as to be of very little use.[49] The city of Vera Cruz proper had very little in the way of fortifications,[50] but its chief defence was always its abominable climate.[51] Moreover, as Vera Cruz was the only real harbor on the Gulf coast, and even that was exposed to strong north winds at certain seasons, it was the opinion of the viceroy in 1794 that it would be a very difficult thing for a hostile squadron to remain long in that neighborhood.[52] On the south coast, according to the same authority, there was no danger of invasion because there was no nation within striking distance strong enough to undertake a regular expedition; and it was hardly conceivable that any of the European powers would send a large expeditionary force around Cape Horn because of any possible

[48] Revilla Gigedo, art. 695.

[49] *Ibid.*, art. 696.

[50] Marquina, art. 173. "La primera [Vera Cruz] se guarnece con la tropa veterana de este ejército, y es capaz de muy poca defensa: San Juan de Ulúa no promete tampoco mucho si los enimigos le cortan los socorros; y su guarnicion se suministra de la de Veracruz."

[51] *Ibid.*, art. 213. "... porque el mal temperamento y la temible enfermedad que allí domina con dolorosos estragos en estos últimos tiempos, hace los mas prontos y crueles efectos en todos los forasteros ..."

[52] Revilla Gigedo, art. 723.

advantage of attacking Mexico by way of Acapulco. The difficulties of transportation, the lack of provisions and particularly of water, practically forbade any attempt to invade the viceroyalty by way of Texas, so that the only real point of danger was from a landing at Vera Cruz.[53] Consequently all efforts of defense were concentrated along the line of the highway leading from Mexico to the Gulf coast and that was what gave the port of Perote its strategic significance.[54] The fortress itself was not intended as a place capable of withstanding a regular siege, and little or no attempt was made to make of it a fortress of the first class. Its great value lay in that it could be made a safe place to collect military stores as well as a base from which to succor Vera Cruz and San Juan de Ulúa.[55] Moreover the superior climate of Perote and its environs made it especially favorable as a point around which to mobilize troops intended to operate in the neighborhood of Vera Cruz. This same advantage was possessed by the town of Jalapa which lay directly northwest of Vera Cruz, and it was immediately thought of as a place for extensive barracks when the news of the outbreak of the wars of the French Revolution reached Mexico.[56] With the nature of this country in mind, it was believed by Revilla Gigedo that with the help of two or three regiments from Spain there would be little to fear from invasions in this direction.[57]

The fortress commanding the best harbor on the Pacific coast of Mexico and the one which was used in the Philippine trade, was officially called San Diego de Acapulco. This was in some ways the most modern of the fortified places in the country and with a little repairs would suffice for the purposes for which it was built. Several additional cannon with other munitions of war were brought to it from Manila in 1794. About the end of the century, one of the viceroys declared that, in spite of those

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[53] Revilla Gigedo, art. 729.

[54] *Ibid.*, art. 699.

[55] Marquina, art. 173. "Perote, que esta situado á un lado del camino real, puede solo servir para un repuesto resguardado de armas y otros efectos de guerra . . . ."

[56] Revilla Gigedo, art. 730.

[57] *Ibid.*, art. 733.

augmentations of its resources, it could hardly be expected to withstand a regular siege of more than eight days.[58] However, such a contingency hardly needed to be provided for.

Viceroy Branciforte, who devoted much of his time to purely military problems, had strengthened these various fortresses, particularly those of Vera Cruz and San Juan de Ulúa, and his predecessor had concentrated a number of additional troops around the eastern coast.[59] The sudden accumulation of a considerable force in that unhealthful region led to a fearful outbreak of disease, which not only nearly destroyed several of the detachments sent there, but created such a panic among the survivors that desertions became incessant and scandalous.[60] This caused such a dread of the service that recruiting became more difficult than ever, and for some time the military service had such a hard reputation that not only the actual number of the troops, but the morale and discipline declined grievously. Such an epidemic as this, breaking out among troops habituated to climatic conditions much more closely resembling those of the Vera Cruz coast region than those with which any European troops were familiar, was some indication of the danger to which an English expedition would have been exposed had it attempted a descent upon the same place. There is no question that Branciforte at least took a hopeful view of the situation, and I can do no better than to quote his words:[61] "It is certain that no hostile naval force could arrive on the coast of Vera Cruz and effect a disembarkation of its troops as

[58] Marquina, art. 173. " . . . . el castillo de Acapulco se reduce á un cuadrado fortificado, que, en mi concepto, podrá resistir á lo más ocho dias si fuere atacado con fuerzas suficientes."

[59] Branciforte, art. 62. This viceroy prepared the fortress of San Juan de Ulúa to withstand a siege of six months.

[60] *Ibid.*, art. 63. " . . . . han destruido con enfermedades y muertes los cuerpos veteranos y provinciales acantonados, causando incesantes y escándalosas deserciones."

[61] Branciforte, art. 67. Branciforte was so optimistic that he was able to write the following: "In such a case our victory would seem to me the more certain and the attempt of any foreign enemy to make himself master of this country the more difficult, even though the attempt be made with a large and veteran army; nevertheless, we ought not to give up or postpone our prudent and opportune precautions."

quickly as our forces could occupy the positions for defense; it ought to be the policy of the commander of our forces to hold them in reserve until he can attack and rout the enemy with superior numbers of men, healthy, strong, and robust, after the enemy had been weakened by disease due to the climate, the incommoding rigors of the heat, the insects, the rains, and the lack of healthful provisions."[62]

It is interesting to see the new importance which the ports of the extreme northwestern coast of the Mexican territory began to assume by the year 1794. In a letter of April 12, 1793, Revilla Gigedo laid the proposal before the king that the next ports to be fortified should be those of Monterey, San Diego, San Francisco, Bodega, and the mouth of the Ezeta or Columbia River.[63] With the same purpose in view, the viceroy turned his attention more and more to the building up of the maritime department of San Blas. That station had been established with the object of affording a base of operations for the founding of the missions and presidios in the Californias. All kinds of supplies were shipped from this port, and it was the place regularly used for fitting out ships to carry men and provisions to the ports farther north. By the end of the eighteenth century, however, San Blas was something more than a convenient place for the provisioning of the California posts, and had become "a point of the greatest importance for maintaining us in the rightful possession of those distant and valuable lands which belong to His Majesty in that region."[64] By this time those coasts and adjacent waters had begun to be frequented by the ships of different nations and a growing sensitiveness regarding their presence there was discernible in the viceregal instructions.[65] The expenses of the estab-

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[62] Branciforte, art. 68.

[63] Revilla Gigedo, art. 701. Revilla Gigedo to Aranda, Nov. 30, 1792.

[64] *Ibid.*, art. 703.

[65] Marquina, art. 194. " . . . . there had visited the coasts of the South Sea various armed English vessels cruising or fishing, and taking several prizes, besides reconnoitering the Gulf of California or the Sea of Cortes, going as far as the mouth of the Colorado, and making small disembarkations on the peninsula of Lower California, with the object of getting fresh water and provisions."

lishment of San Blas had kept growing and it had become by the days of Revilla Gigedo the headquarters of the Pacific squadron (if the few vessels could be dignified by that name), and was therefore, next to Vera Cruz, the chief naval station of the viceroyalty.

The captain-general was, of course, the head of whatever there was of a viceregal navy and he maintained two small flotillas on the two Mexican coasts. In addition to a few coast guards, corresponding to modern revenue cutters, there were stationed at Vera Cruz a small and varying number of gunboats to supplement the defenses of the port. They were of very light draft and were apparently the kind of vessels that Jefferson wanted for the navy of the United States. Nevertheless, any serious naval operations undertaken in the Gulf would be placed under the direction of an admiral of the royal navy, but the captain-general, through his commandant at San Blas, could exercise undisputed control over the movements of the ships on the Pacific coast. In 1794 there were attached to the station of San Blas three frigates, one packet-boat, one brigantine, three *goletas*, and one sloop.[66] The last four boats were suitable for exploration but did not carry heavy guns. The commandant there had a staff of ten naval officers, besides the usual chaplains, pilots, and so forth. There was also a small arsenal with its corps of workmen and a guard.[67]

Important as the station of San Blas had become, there were many reasons why it would have been better to abandon it entirely and to transfer all its activities to the neighboring port of Acapulco. Though the viceroy strongly urged this upon the crown in 1789 and 1790, the matter was passed over without even a reply. The climate of San Blas was very unhealthful.[68] It was

[66] Revilla Gigedo, art. 705.

[67] *Ibid.*, art. 706.

[68] *Ibid.*, art. 707. It was evidently the intention of the viceroy to concentrate everything at the port of Acapulco. Besides the advantages enumerated above, there would be the further economy of having the naval commandant act as the *castellano*, or commander of Acapulco. Furthermore, supplies could be brought cheaply by water from Lima or Manila.

a long and most expensive process, the carrying of materials and supplies by land from Vera Cruz, while the harbor of Acapulco was not only more commodious, but was better defended. In spite of these and other reasons which might be recited, the captain-general was not allowed to have his way.

Among the duties which fell to the captain-general as head of the army was that of providing for the housing of the troops, of providing barracks for them when they were able to be in the ranks, and hospitals when they were sick or wounded. The occasional outbreak of an epidemic such as the terrible "*vómito negro*" and a high death rate at other times, reflect the lack of success which the captains-general experienced in taking care of the health of their troops. No attempt was made to procure permanent quarters for the militia, but that problem for the regulars was faced by the younger Revilla Gigedo, and he devoted several pages to the matter in his instruction to his successor. The proper places to begin were, of course, the important cities of Mexico and Vera Cruz, where considerable garrisons were kept regularly in times of peace. In 1763 the work on the barracks of Vera Cruz had been begun in pursuance of the order of the king, September 26, 1762, which had appropriated ten thousand pesos a year for that work. Contracts for the materials were immediately let, but there then succeeded a series of delays which, in a manner quite characteristic of the Spanish administration, deferred the doing of anything really important for something like twenty-one years, and the work was not accomplished until the beginning of the nineteenth century.[69]

While the construction of adequate and sanitary barracks for the regular troops was thus being delayed, it was of course necessary to rent quarters. According to the viceroys these were expensive, unhealthful, and generally unsatisfactory, conducing to the ravages of diseases, and, of course, tended to make the service unpopular and desertions frequent.[70] It throws inter-

[69] Revilla Gegido, art. 676.

[70] *Ibid.*, art. 678. The duty of selecting sites for barracks fell to an officer of engineers, in the first instance, and then they had to be approved by the subinspector.

esting light on the ways of the Spanish administration, just such a question as this one of providing sufficient barracks. The captain-general was responsible for the health and efficiency of his troops, but while he was sending on the average millions of pesos a year out of the country, he was prevented by the indifference or selfishness of the crown from taking those steps which were absolutely necessary for the proper carrying out of his duties. It was only with the greatest difficulty that at last in February, 1792, authorization was finally secured for the erection of barracks in Vera Cruz, sufficient for three battalions of infantry, a squadron of dragoons, and five hundred prisoners of the galley.[71] In the capital itself there were quarters for only one regiment, though some improvement was made toward the end of the eighteenth century. It would be fruitless to give more illustrations or to attempt to give this subject further treatment.

What was true of the effort to secure adequate barracks was also true of the military hospitals. There was no military hospital in the City of Mexico and lacking this, it was necessary to send the sick soldiers to the hospital of San Andrés, which was under the management of the archbishop.[72] There resulted in consequence constant bickerings and occasionally serious disputes between the hospital corps and the soldiers. These complaints were reciprocal and very hard to satisfy, so that finally admission to the hospital was forbidden to patients suffering from certain specified diseases. Thereafter it was necessary to send soldiers with those diseases elsewhere and there were in consequence inefficiency and delay.

There was a hospital in Vera Cruz,[73] the San Carlos, for soldiers and sailors,[74] but a great many more hospitals were

[71] Revilla Gigedo, art. 681. It had been the intention of the viceroy to secure a part of the College of San Pedro y San Pablo, formerly a Jesuit institution, for the barracks of the City of Mexico, but this property was divided between the *montepío* and the Colegio Carolino, and the military was left out.

[72] *Ibid.*, art. 682.

[73] Marquina, art. 215–217. "Considero que ninguna habia tan oportuna como la construccion de un hospital nueve y capaz, sobre lo que dejó un expediente mi inmediato antecesor, y otro se ha principiado en mi tiempo . . . ."

[74] Revilla Gigedo, art 683.

needed all over the country. One was indeed begun at Chihuahua in the spring of 1790, but that was only the merest beginning.[75]

Such details as these are necessary to show the actual course of affairs in New Spain, and to show the real nature of the power of the captain-general. The primary authorities abound in evidence of the diverse nature of his task and of the restrictions imposed by the mother country upon the proper fulfilment of it. The captain-general had to attend in a general way to the pay of the troops, their equipment, their housing, and their training. He had to direct the great powder factory at Chapultepec and see that its products were distributed aright.[76] He was responsible through the subinspector-general for the inspection of the troops and was directly charged with the inspection of the artillery. Viceroy Marquina tells of his drawing up a *reglamento* governing the securing of goods from the storehouses containing the artillery supplies.[77]

Although the financial duties of the viceroy were mainly those which came to him as superintendent-general of the *real hacienda*, yet, owing to the peculiar methods of financing the military establishments in Mexico, it might even be said that the captain-general had something to do with the raising of revenues.

The regular forces, the army, as the Mexicans called them, were maintained out of the viceregal treasury. The urban regiment of the City of Mexico was paid for by the *consulado* of that city, and various funds were tapped for the support of the different militia organizations. When the militia was reorganized in 1764, under General Villalba, it was ordered that a special tax should be levied in each province for that purpose. A committee was appointed to consider the whole matter. This committee was composed of the viceroy, Visitor-General Gálvez, and

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[75] Revilla Gigedo, art. 684.

[76] Marquina, art. 191.

[77] Ibid., art. 190. "La inspeccion del ramo de artillería estaba entonces unida al Vireinato, y las principales providencias que se habian dictado sobre la materia, se reducian á la formacion de un reglamento para el taller de Perote, ... y la instruccion . . . . relativo al método y formalidades para la . . . . extraccion de efectos en los almacenes del . . . . ramo de artilleria."

General Villalba, and as a result there was levied a new tax on *pulque* of half a *real* on every *carga* brought into Mexico[78] (February, 1787). There were other taxes on food-stuffs and the like, established in the City of Mexico and in Puebla, but it took a long while to have this movement spread to the other cities. In 1774 it was proposed to increase the dreaded *alcabala*. About the same time they even proposed to make a government monopoly of the native rum (popularly called *chinguerito*), which would not compete with Spanish brandies. It was not until the rule of Flores, in June, 1788, that much real progress was made. The taxes at that time, in the various intendancies, for the support of the militia, were found to be of the greatest possible varieties, so great that only a few examples can be given here. In Puebla there was a sort of octroi tax on wheat. In Oaxaca they taxed sugar and cocoa, which was sufficient to support twelve soldiers and a corporal. In Guanajuato there was a tax on corn and wheat, but only a part of the income was devoted to the soldiers. In San Luis Potosí and Guadalajara there were no taxes at all for the support of the militia.[80] In February, 1792, the subinspector-general fell back again upon the *alcabala* to raise the necessary funds, and an addition of one-half per cent was proposed.[81] The directors of this branch of the revenue objected to any further increase of the *alcabala* and proposed a tax on either tobacco or *chinguerito*.[82] None of these new taxes was levied, however, but it was the opinion of the viceroy in 1794 that the various taxes formerly established very nearly paid for the militia, and that nothing further was necessary than a somewhat more just apportionment of them.

It is thus apparent that the military establishment in New Spain was not supported by any logical and comprehensive scheme of taxation or by regular appropriations from the vice-

[78] Revilla Gigedo, art. 665.
[79] *Ibid.*, art. 686.
[80] *Ibid.*, art. 669.
[81] *Ibid.*, art. 671.
[82] *Ibid.*, art. 672.

regal treasury, but was kept going by a hand-to-mouth process of raising revenue. It could not be divined from the documents that the viceroys had any very definite ideas on the subject themselves, so that in this case the fault cannot be charged to the interference of the crown with the viceroy's plans.

The subject of the military organization of New Spain cannot be left without a paragraph on the *fuero militar,* or the special rights enjoyed by persons in the military service, and a paragraph also on the *montepío militar,* modelled on the institution of the same name in Spain. In 1768, while Gálvez was in Mexico as visitor-general, there were put into effect those military ordinances which constituted the military code of the country. Any military man, or any one who by some means or other secured the *fuero militar* (as was, for instance, possible to the members of the *consulado* of Mexico when they furnished substitutes for the city regiment) had the right to be tried by a military tribunal. This might in many cases give a great advantage to the member of the favored corporation over the ordinary layman who could plead no exemption, and so was, of course, liable to abuse. Questions arising out of the administration of this *fuero* had to be settled by the viceroy in his military capacity. As head of the army and responsible for its discipline, the captain-general was the supreme judge of the viceroyalty in all cases within the military jurisdiction. This was so great a power that some mention of it is due in any treatment of the position enjoyed by the viceroy as captain-general. The military jurisdiction had been gaining toward the end of the eighteenth century, according to one viceroy, " . . . . especialmente desde las ultimas declaraciones que han dado al fuero tanta extension, la tiene grandisima en estos reinos . . . ."[83] Acting in his capacity as supreme military judge the captain-general was assisted by an *auditor de guerra* who was also one of the members of the Mexican *audiencia.* There was no appeal in these cases over the head of the captain-general to the *audiencia,* so that in such

[83] Revilla Gigedo, art. 98.

matters the viceroy acted practically in a sovereign capacity.[84]

The *montepío militar* was established in Spain in the year 1761, probably in imitation of the *mont de piété* in France. In February, 1765, it was introduced into New Spain as a kind of pension fund for the widows and orphans of the officers dying in the service. This fund was supported by a *mesada*, or monthly payment which every officer had to give, and a further tax of two and one-half per cent of his pay thereafter, and by an annual subsidy of two thousand pesos. On the death of an officer his widow or children received annually one-fourth of the salary he had at the time of his death.[85] The administration of the *montepío militar* was in the hands of royal officials. The fund received additions from time to time and by the end of the year 1793 had brought into the treasury over three hundred and sixty thousand pesos and had paid out enough less so that there had been a surplus of over two hundred and eighty thousand pesos.[86] It must be regarded, then, as a means of producing revenue, on a small scale, as well as a public charity and a device for making the military service more attractive.

There were a number of general problems confronting every viceroy as captain-general, on which, if he could not decide them, he might at least give advice even on his own authority. Besides, regardless of whether his influence was to have any weight or not, it was impossible for him not to have an opinion and not to ponder over it seriously. It must be helpful, if not necessary, to an understanding of the position of the captain-general to indicate at least in broad outline what these problems were.

The first question had to do with the extent of the military preparations which ought to be made by the viceroyalty in antici-

[84] Revilla Gigedo, art. 99. "Con este nombre se halla tambien condecorado el teniente letrado de la intendencia de Veracruz, pero en realidad no es posible que ejerza las funciones del oficio, pues aquel gobierno es independiente de este Capitania general, y asi solo en ella, y en las independientes de provincias internas y de Merida de Yucatan, puede haber con propiedad Auditor de guerra, y cualesquiera otros que sean nombrados como el de Veracruz, no haran mas funciones que las da un Asesor en asuntos militares."

[85] *Ibid.*, art. 734.

[86] *Ibid.*, art. 738.

pation of a possible foreign war. There could be no doubt in the mind of any intelligent man that there was always danger of an attack upon the Spanish American colonies by the English, and after the experiences of the Seven Years' War, when both Manila and Havana had been captured, there could be no doubt of the danger of leaving the colonies without adequate means of defense. The expedition of the English against Buenos Ayres in 1806 showed that the Court of St. James was in earnest in its designs upon certain parts of the Spanish colonial dominions, while the intrigues with Miranda, probably not clearly understood by the Spaniards, afforded plenty of ground for a suspicious attitude toward the English.[87] Viceroy Branciforte in a communication to his successor, Azanza, May 28, 1798, speaks of the fact that he had been informed by the Prince of Peace, Manuel Godoy, regarding an expedition which the English were fitting out against Mexico, in which Miranda was to play a considerable part. Such things as this indicate the growing nervousness of the Spaniard with respect to his American possessions, though the viceroys were not all agreed as to the means to be employed in meeting the danger. Those who leaned toward a strong military policy, of which Branciforte was undoubtedly one, thought that the proper course to pursue was to increase as much as possible the military resources of the colonies. Viceroys like the younger Revilla Gigedo were just the opposite of alarmists and thought that the natural difficulties involved in any attempt to conquer Mexico were so great that with the aid of a very few Spanish regiments the country could defend itself.

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[87] Branciforte, in a letter to Azanza, dated May 28, 1798, refers to Miranda, " . . . . que sirvió de general en Francia á los principios de la guerra, y que se hallaba al sueldo de la Inglaterra: asegurándose por último que aquel hombre pérfido se había embarcado con destino á Mexico, donde se suponia tener un partido favorable á las operaciones de nuestros enemigos; . . . ."

It is clear from the *Minutes of a Court-Martial for the Trial of Sir Home Popham*, London, 1807, that in 1804 the English government meditated an attack on South America in coöperation with Miranda. Referred to by Moses, *South America on the Eve of Emancipation*, p. 255. Consult also Robertson's *Miranda*, listed in the bibliography.

Men who held this view would naturally believe the money was better spent in developing the internal prosperity of the viceroyalty and increasing the loyalty towards Spain, than by laying it out upon new fortresses and new regiments.

Though the advocates of a strong military force eventually carried the day, there remained the other great question, which was debated warmly at the time, as to what this force should comprise. The question was, should the chief reliance for the defense of the country be placed upon the Mexican troops, or should the viceroyalty depend more and more upon the regiments from Spain? The views of those who placed their main reliance upon European troops may be summed as follows:

In the first place, owing to the lack of military spirit among the creoles and the Mexican natives, and the growing sentiment of indifference or disloyalty toward the king, the provincial troops, whether regular or militia, were inferior in quality to the Spaniards proper. The conditions of service were so hard that the recruiting of a sufficient number of regulars was practically out of the question, while as many as there were of them were of inferior quality compared with the Spanish veterans themselves. In the eyes of the professional military men the great majority of the militia were impossibles. The militia officers were mainly individuals lacking in intelligence, training, and even courage, who had purchased their positions to enjoy the dignity of even a humble military command, or else to enjoy the privileges and exemptions of the *fuero militar*. When called into service where there was a prospect of real fighting, they suddenly took ill or resigned, or in some way shirked their duties.[88] The rank and file had poor and obsolete weapons and did not receive sufficient

[88] Villarroel, iii, 158–160. Always an atrabilious critic, Villarroel is at his worst when speaking of the evils of the Mexican militia system. "Without hyperbole, the King has more officers than privates; it being evident that most of the former purchased their places to make a spectacle of justice, to escape paying their debts, to gamble, and live a life of libertinage under the protection of their epaulettes. But if there is occasion to march to Vera Cruz to repel an enemy or for any other urgent reason they feign illness and make all pretexts imaginable to avoid the service."

drill even with those that they had. In the face of such facts as these, and they could scarcely be disputed, what could be done if some ten thousand British veterans were safely disembarked at Vera Cruz?

From the point of view of the statesman there seemed other reasons equally valid for committing the defense of New Spain chiefly to the mother country. The more the captains-general succeeded in making the colonies independent of the crown in a military way, by improving the fighting spirit and discipline of the colonials, the more dangerous it would be to Spain if there should ever occur a serious dispute between her and the colonies. There was already beginning to be observable a strong antagonism, economically and politically, between the two main divisions of the Spanish empire. With this before them, Spanish statesmen could not ignore the evil political effects of a consciousness of military independence among the Spanish Americans. Branciforte in a letter to Azanza refers to the fact that Miranda was counting on a following in the viceroyalty, if he should be able to land there. In another place the same viceroy speaks of the tumults among the populace that could scarcely be taken care of by the forces at his disposal.[89] Consequently, it was nothing less than dangerous for Spain to try to evade her responsibility of garrisoning her dependencies. Moreover, on the selfish side, Mexico could be made to support a great many Spaniards, if they were given good positions in the army, and if the support of that part of the army were charged to the Mexican treasury.

Arguments quite as elaborate and perhaps more effective in opposition to those given above were in circulation among thinking men at the time when everybody was deeply concerned over the wars of the French Revolution. No one denied the lack of military qualities in the troops of New Spain as they existed at the end of the eighteenth century, but it by no means followed that there was any inherent incapacity for war or any innate

[89] Branciforte, art. 13.

lack of military virtues in the American population.[90] It was held by a great many that all that was necessary was to spend the same care and money on the native troops as was done upon the Europeans, in order to secure the same degree of efficiency. It would take time, patience, and money, but it was perfectly feasible.

From the Mexican point of view there would be the further advantage of spending all this money at home and upon Mexicans, besides developing their own military institutions, and in the long run it would be more economical because the average pay would not be so high in the New World as in the Old. The complaint that there was an excessive amount of idleness and a lack of opportunities for work in the colonies would be partially met by the employment of a few thousand more men in the army.

There were, moreover, certain positive objections to the presence of Spanish regiments in the colonies in time of peace. It was the duty of the viceroys to take into consideration something besides merely the superior qualities of the European troops when they first arrived in America. To begin with, they had no sooner been disembarked than they began to deteriorate. Their downhill progress was rapid, if only a part of Villarroel's statement is true. The officers gave themselves up to all forms of dissipation and extravagance and the common soldiers imitated them to the extent of their humble means. Disease and desertions thinned the ranks at an appalling rate, while the general morale was depreciated in proportion. According to Villarroel, a Spanish regiment was worthless after a short sojourn in Mexico, and besides the loss of what would otherwise be valuable troops, there were certain incidental evils of a serious nature.[91]

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[90] Villarroel, iii, 139. According to this author, those who held the anti-Spanish views admitted the inferiority of the native as a fighting man but attributed it to the Mexicans' bad breeding and absence of education. "Man is by nature the same, and what is lacking to the Mexican is only direction, instruction, and subjection to the proper discipline in order to make him the equal of the European, and particularly good leaders [are necessary] who by example and energy can overcome their evil inclination, ..."

[91] Villarroel, iii, 145 *et seq.* After pointing out the increased cost of bringing over and maintaining the regulars from Spain, he asked the

New Spain at this time was beginning to be afflicted with unwelcome immigration from the Old World, particularly refugees from France. These people very often brought with them "French principles" which did not harmonize with the views on society, religion, and government held by the ruling classes in the viceroyalty. Also, a greater influx of undesirables of all kinds from Spain itself was aided by the bringing over of the Spanish regiments. Deserters from the army became a pest to Spanish American society and there seemed to be no remedy but the rigid exclusion of all immigrants from Spain, excluding even the regulars, and then making things uncomfortable for all the objectionable characters by herding them into the Mexican army. In this way it was hoped to arrange military affairs on a proper basis and at the same time solve the immigration problem. That this aspect of the problem, the question of immigration, and that of putting restrictions on the foreign element, had become so important a one to the viceroys, is apparent from the documents.[92] Branciforte was driven to communicate with Madrid on this subject early in his administration and he informed his successor that soon after he assumed command he began to instruct himself, "with serious attention to this grave matter."[93] As the preservers of public order the captains-general had to pay attention to these matters incidental to the great military question itself.

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question, "What good is it to the monarchy to send over these troops for the garrison of this country, if after a few months of residence they are not fit for anything, either officers or soldiers?" The officers give themselves over to *juego* and *cortejo*, while the soldiers go about well dressed and many of them carrying two watches! A further objection was that these troops adopted French manners and dress and made themselves the laughing-stock of the sober-minded.

[92] Villarroel, iii, 147–148. There is no definite information in the documents in regard to the number of desertions from the army, though it seems to be agreed that they were quite too numerous. Villarroel, as usual, took the extreme view, that largely through these desertions the Spanish peninsula was being depopulated and the Mexican viceroyalty overrun. This condition he declared to have existed in its worst form since the free trade decree of 1778.

[93] Branciforte, art. 12.

It is now perhaps possible to see quite clearly what sort of capacity was expected of the captain-general, what sort of problems he had to face, and what were the activities which pressed upon his time and attention. These duties were the very heart of the whole body of responsibilities which were imposed upon the viceregal office and were historically and actually the most important things which the viceroy was called upon to do. It was Villarroel who referred to the office of captain-general as the "*función primitiva*" of the viceroy. In the words of Marquina, "The army of this realm in its different branches is an object of first importance, because one looks to it as the defense against external enemies, and as the interior reserve for the maintenance of good order and tranquility . . . ."[94] Because he was commander of the army and navy, the captain-general had to see to the enforcement of the imperial navigation laws, the running down of smugglers, and the preservation of order on the frontiers and the navigable waters. As head of the armed forces he was chief justice for all cases involving a *fuero militar*, and also the one person in the viceroyalty to whom the troops might accord the royal honors.

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[94] Marquina, art. 147.

CHAPTER V

THE VICEROY AS VICE-PATRON

No study of the viceregal office in America would be complete without some reference to the powers exercised over the church by the viceroy as vice-patron.[1] The vast spiritual interests which the church possessed in the conversion and instruction of the native races of America not only made the ecclesiastical establishment an important feature in the life of the New World, but it also brought it into close contact with the civil government. Considering the importance of the church, it is not a little surprising that there was so little conflict between it and the state, but whatever the reason for this may have been, there can be no question that the relations of the state and church in Spanish America were free from serious conflicts, even if these relations were not always exactly harmonious.[2] It may be that this harmony can be accounted for by the definite settlement of the old controversies between the popes and the kings of Spain before there really was any church in America; and also by the fact that the means of communication between Rome and America were so inadequate and so indirect that there was little chance or temptation for the popes to interfere in the Spanish colonies.

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[1] The two chapters in Bancroft's *History of Mexico*, vol. iii (chaps. 32 and 33) are so satisfactory that a formal treatment here of the subject of the church of Mexico would only be an imitation. What will be dealt with here under the title of "The Viceroy as Vice-Patron" is not the church of Mexico, but the much narrower subject of the viceroy's connection with it.

[2] These words of Parkman, with reference to the politico-ecclesiastical situation in Canada, would have been true of Spanish America: "After all, the dispute between the civil and ecclesiastical powers was not fundamental. Each had need of the other; both rested on authority, and they differed only as to the boundary lines of their respective shares in it." Parkman, *Old Régime in Canada*, ii, 135.

In defining royal patronage it might not be possible to do better than to reproduce the language of some of the eighteenth century viceroys. The elder Revilla Gigedo, in his instruction to his successor, the Marqués de las Amarillas, referred to it as follows: "The Royal Patronage of the Indies, as it is defined in Law I, title vi, book 1, belongs to His Majesty by many most just titles in order that the Catholic zeal may plant, conserve, and promote in these vast dominions the faith of Jesus Christ and the conversion of the gentiles, by endowing churches and missions for the spread of the Gospel; and this being a matter which has been greatly agitated among writers, and many of the doubts which have influenced the prelates having been settled, the Royal Patronage is now in the care of the viceroy, who has nothing to do but maintain its rights and prerogatives in their present form."[3] Even more striking are the words used by the younger Revilla Gigedo in his instruction to his successor, the Marqués de Branciforte: "The functions of the Royal Patronage which the viceroy exercises as vice-patron are those which most exalt the authority of that office, not so much by the direct authority which they give to the government, as by the indirect influence which is conferred upon the person who rules even in the temple (*manda aun dentro del templo*) and by the ecclesiastics who were always an object of veneration among the peoples of all nations."[4] The same authority thought that the kings of Spain who obtained from the pope the *patronato universal de las Indias* had given no greater evidence of wisdom than the securing of that "richest jewel in the royal diadem."[5] In the same light was viewed the grant of tithes as a partial recompense for the great expense and labor which the crown had been exposed to in the conquest of the country. ". . . In nothing else has there been better evidence of the generosity, piety, and religious spirit of our Sovereigns than in the use which they made of this large donation, all of which and more, they have employed in the building and endowment of the beautiful temples which

[3] Revilla Gigedo the Elder, art. 143.

[4] Revilla Gigedo, art. 25.

now exist in these dominions, and in the propagation of the faith, and the teaching of that doctrine to the Indians.''[5]

From such statements as the above it can be seen how the viceroys in the eighteenth century looked upon their positions as vice-patrons. It was to them a matter of great importance in that it gave them a certain prestige among the people over whom they were commissioned to rule; but not from the fact that they derived from it any great increase of actual political power. It was not even believed that a very great deal had been accomplished for the religious improvement of the Indians after all these efforts.[6] In spite of the vast outlay of money on church property and the material side of the church's activity, besides the maintenance of a large body of church officials, the condition of the natives, from a religious point of view, was most discouraging even at the end of the Spanish régime. ''The most grievous thing about it is, that so great expenditures, care, and zeal, and such wise measures taken during all these times upon this point, have not produced the effect which one ought to expect, and the Indians are still very ignorant and rude in matters of religion, as Your Excellency will discover when you inform yourself regarding their devotions and the way they fulfill their religious duties.''[7]

Though there is an abundance of evidence that a large proportion of the Indians of New Spain remained practically unaffected by the introduction of Christianity, yet this must not be charged to the fault of the viceroys.[8] The actual administration of the affairs of the church, particularly on its purely religious side, was in the hands of the church officials and the influence of

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[5] Revilla Gigedo, art. 26. The words in the quotation marks were not Revilla Gigedo's but came from Ribadeneyra. Bancroft, *History of Mexico*, iii, 684, note 9.

[6] The one viceroy who unqualifiedly praised the native population was Branciforte, but he praised everything. Branciforte, art. 103. Bancroft, *History of Mexico*, iii. 681, note 1.

[7] Revilla Gigedo, art. 27.

[8] The general directions of the missions was in the hands of the vice-patron, but it was impossible for him to know all about them. Revilla Gigedo the Elder, arts. 152–155.

the viceroys could be only very indirect. In a general way, they were to see that the rights of the king were not infringed upon by too zealous ecclesiastics, and that the latter did not fight among themselves to the detriment of the interest of the government and the people at large.[9] This vague and general authority did not allow of much more than a moderating influence in church affairs, as the following pages of this chapter will make evident, and so from the point of view of this thesis the holding of the *real patronato* was only one of the minor functions of the viceroy.

The history of the royal patronage in Spain and America is both simple and accessible, there being a number of good accounts in Spanish and a few even in English. As is stated in all the books, the rights which the kings of Spain possessed over the church in America were derived from the numerous papal grants, beginning with the celebrated one of Pope Alexander VI, of the year 1493, and enlarged upon by the bull of Julius II, in 1508. As the popes had little or no machinery for managing their interests in America, at least in the earliest days, and as the Spanish kings seemed disposed to co-operate with rather than to antagonize the popes in purely spiritual affairs, the concession of the tithes and the right to nominate all church officials to the king was obtained without great difficulty. In 1574,[10] Philip II stated explicitly in a royal decree the basis for his claims to the patronage and by that time the exercise of it by his predecessors had given it a sanction which was not to be disputed thereafter.

Although the main questions between the church and state had been settled by the middle of the sixteenth century, there remained till the end of the Spanish rule a number of outstanding points of friction.[11] The papal nuncio at Madrid was the center of most of these difficulties in the seventeenth century. In the words of Marqués de Mancera, 1673, "Some of the apos-

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[9] Revilla Gigedo the Elder, art. 167. Mancera, p. 268.

[10] Moses, *Spanish Rule in America*, pp. 241–242.

[11] One of the most sweeping condemnations of the church and its unworthy servants among the viceregal documents is to be found in the instruction of the Duke of Linares to the Marquis of Valero, pp. 308–309.

tolic nuncios resident in Madrid have attempted at different times (either because of instructions or orders from Rome, or because of their own natural desire to extend their authority) to introduce themselves with Italian dexterity into the affairs of the new church of the Indies, and they have ever opposed the measure taken by the Council . . . . to put into effect the bull of Gregory XII, ordering that ecclesiastical cases be concluded before the royal judges without further appeal."[12]

In such matters the viceroys resisted the pretensions of the church and the activities of the nuncios and prelates with such vigor that difficulties of this nature had well nigh disappeared by the end of the eighteenth century. This same Mancera declared that "The viceroys and ministers have acted in such cases with that care and vigilance which was needful just in proportion to the resistence which the prelates offered, due to ignorance or malice."[13] A case in point was the one growing out of the proclamation of a jubilee by Clement X, on his accession to the pontifical throne. The brief which the Pope issued on this occasion was sent direct by the nuncio at Madrid to "a certain prelate" in New Spain, who directly promulgated it, and affixed it to the churches, without waiting to secure the previous approval of the Council of the Indies (which should have been secured before the brief was sent to America at all) or even notifying the government in Mexico. All this irregular procedure was condemned by the order of June 10, 1652, and this action may very well be taken as typical of the attitude of the Spanish crown in regard to allowing direct correspondence between the European authorities in the church and the prelates in the Indies.[13]

Although it can scarcely be said that there were no points of difference between the civil and ecclesiastical authorities toward the end of the Spanish régime, yet it must be conceded that those points of difference were of distinctly minor importance as compared with the issue stated in the above paragraph. The younger

[12] Mancera, p. 270.

[13] *Ibid.*

Revilla Gigedo and the archbishop had a little trouble about their relative dignity, and the small question arose whether the archbishop should receive from the palace guard the same military honors as were accorded to the captain-general,[14] but the general tone of the relations of the two was amicable. As an illustration of the contrast between the feelings of the heads of the civil and ecclesiastical branches of the government in Mexico in the seventeenth and eighteenth centuries, the following quotations may not be lacking in interest. With the markedly hostile words of Mancera in mind (see above) the following words of the instruction to Cagigal, written in 1760, are striking enough. "The functions of the vice-patron, which are among the most extensive privileges conceded by the sovereign to his viceroys, are entirely accepted and in use. Your Excellency will find in the most illustrious archbishops and bishops of this realm those dispositions which are to be expected from their positions (*las disposiciones de que es capaz la piedad de sus dignidades*) and the most active zeal for religion and for the service of the king, and without offense to the rest, Your Excellency will immediately find in the most illustrious prelate of this capital all the admirable qualities which with double advantage for the above cited qualities will make easy for you a close union of the two jurisdictions, and a happy concord of honor and justice . . . . "[15] It is impossible, with the limits imposed upon the length of this paper, to reproduce here the language of the Viceroy Branciforte, in his characterization of the multiple virtues of the church and all its servants in his day, but a few sentences will be sufficient to indicate the general trend of his remarks. After paying the highest compliment to the piety and loyalty of the Archbishop of Mexico, Branciforte referred to the bishops suffragan as "adorned with the same admirable qualities and . . . . resplendent virtues which the diocesan prelates of New Spain possessed to an equal

[14] Revilla Gigedo, art. 524 *et seq.*

[15] Marfil, p. 109.

[16] Branciforte, art. 98.

of the Holy Cathedral Churches and the Royal College of Guadalupe, well served by distinguished, cultivated, and exemplary priests, dedicated to the fulfilment of their sacred offices . . . . with that decorum, propriety, and apostolic zeal and magnificence which induced true sentiments of religion and piety into the hearts of the faithful."[17]

It would be easy to increase the number of citations of this kind, if it were worth while, but enough has surely been given to indicate that a great change had come over the relations of the viceroys and the archbishops from the earlier to the later period. The crushing blow dealt to the Jesuits in 1767 was in no sense a disadvantage to the rulers of the secular clergy; while, in general, the church in America escaped those attacks upon its privileges and property which Charles III. had instituted so vigorously in Naples and had later applied, in a somewhat milder form, in Spain itself. This almost perfect harmony between the clergy and the civil government during the last days of the Spanish rule will help to explain the extreme loyalty of the church to the Spanish government, when the wars of independence broke out.

It would seem easy to account for the loyal support which the church so uniformly gave to the government by pointing out the advantages conferred on the latter by the former, but it should be remembered that there were two sides to this. The church in America, though it was able to amass great wealth, was also obliged to contribute very liberally to the support of the government. As was explained in the preceding chapter, the salaries of the ecclesiastics were taxed by the collection of the *media-anata* and the *mesadas*, and in two other ways was the church made to pay a share for the expenses of the state. The sale of the bulls of the *Santa Cruzada*, while not a tax on church property, was a means of raising revenue through the instrumentality of the church and so probably diverted money which might normally have gone into the hands of the prelates, into

[17] Branciforte, art. 99.

the royal treasury.[18] Moreover, the tithes, which were the chief source of revenue of the church, were, according to the bull of 1501, to be paid into the hands of the king. They were used largely in the maintenance of the religious establishments but not entirely, and a considerable surplus later came to be reserved for the ordinary temporal demands on the royal treasury.[19]

That this complex financial relation of the church and state could be maintained for centuries without any friction whatsoever was not to be expected, in spite of the general good understanding between them. There were some cases of misunderstanding between the viceroys and the prelates in the course of Mexican history. In one case, the king disregarded the grant of immunity from paying tithes which had been made by the pope to Cortés;[20] in another case, in 1539, the bishops of Mexico and Michoacán "disagreed on this subject," according to Bancroft, "and the king ordered the latter prelate to submit to the decision of the viceroy and the *oidores* without appeal."[21] Other examples might be given of disagreements between the lay and clerical authorities in the sixteenth and seventeenth centuries, but their respective rights were pretty well established and mutually understood by the days of Charles III.

From the point of view of the Spanish administration of New Spain the duties which fall to the viceroy as vice-patron, or the personal representative of the king as the temporal head of the church, may be considered under three heads. Under the first may be placed those duties which related to the appointing power, and which involved the right of presentation, or the nomination of all church officials holding appointive offices, which amounted to being present at the election of those church officials

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[18] The chief source for information about the financial system of New Spain is still the *Historia de Real Hacienda*, by Fonseca and Urrutia, 6 vols., Mexico, 1853. The revenues derived from the church are all exhaustively treated there.

[19] Bancroft, *History of Mexico*, iii, 666, note 50.

[20] *Ibid.*, p. 668, note 58.

[21] *Ibid.*, p. 667, note 54.

who received their nominations from chapters and other collegiate bodies. Under the second may be grouped those viceregal functions which brought the viceroy into contact, and sometimes conflict, with the ecclesiastical courts, and the various privileges and exemptions which the church and its functionaries possessed as an organization more or less outside of the ordinary civil government. Under the third may be considered that group of political activities in the field of education and charity which was so largely under the control of the church. Within these three groups may be classified practically every official act which the viceroy performed as vice-patron. I shall now attempt to show what part each one had in the administration of the viceroyalty.

In the earliest days of the Spanish conquests and colonization the small number of priests and friars in America required no special supervision, and constituted no particular problem for the home government. When the church had been so fully established that it possessed large properties, its own hierarchy of officials up to the archbishops in Mexico and Lima, and had difficulties in its own internal organization growing out of jealousies of the secular and regular clergy, the necessity of a vice-patron was forced upon the attention of the king. In 1535 the first viceroy in America, Antonio de Mendoza, was given, along with his other powers, that of the royal patronage. He was to have full power to present to all benefices, high and low, and fix the limits of the dioceses as well. Although he was commissioned to fill all vacancies in the church, in practice the archbishop of Mexico (the first one was Juan de Zumárraga, 1547) and the other prelates were elected by their respective chapters in the presence of the king's representative. In such elections it was necessary for the viceroy to exercise extreme care lest partiality or prejudice on the part of the members of the chapter prevent the choice of the right candidate. The elder Revilla Gigedo, writing in 1755, declared that the vice-patron "ought to observe the names placed in nomination with great circumspection." Again he stated, "as it is extremely difficult to find a chapter whose members combined learning, virtue, and impar-

tiality, it is not possible to count upon the majority of votes being cast for the most worthy."[22]

This appointing power covered all cases of promotions and translations of the secular clergy and the privileges of the regulars to fill curacies or to enjoy any exceptional favor. It extended to all positions in the cathedral chapters, though it was enjoined upon the viceroy that graduates from Spanish universities, and from Lima and Mexico, should be favored over others. When an election took place in any monastery or collegiate body, it was customary for the viceroy to appoint an *asistente real* to act in his stead as the representative of the king.[23] As many of these places were very well paid, particularly the four stalls in the Cathedral of Mexico, there was often a lively competition for the vacancy.[24]

One viceroy tells how difficult it was to secure impartiality in such appointments, although it was necessary for the most intelligent selection of the candidate: " . . . . for, as it has turned out in my time, before the election had taken place, each candidate had made sure of the number of votes upon which he could count."[25]

As has already been intimated, the election of the officials among the regular clergy came under the supervision of the vice-patron. At times these elections aroused such partisan feelings among the electors that special measures had to be taken to preserve the proper forms and decorum. There were occasions when something worse than a breach of decorum was imminent. The younger Revilla Gigedo, writing in 1794, left an account of an election held in the Franciscan convent of the City of Mexico

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[22] Revilla Gigedo the Elder, art. 145.

[23] *Ibid.*, art. 146. This authority states that he was accustomed to appoint as *asistente real* a Jesuit, "accredited with virtue and letters." This functionary was to be present at the synods and meetings where the candidates appeared in public, so that he might inform the viceroy regarding the qualifications.

[24] Bancroft, *History of Mexico*, iii, 690, note 26. There was a possibility of disagreement between the viceroy and the ecclesiastical authorities over the matter of vacancies. Revilla Gigedo to Porlier, July 27, 1796.

[25] Revilla Gigedo, art. 29.

in which "there would have been the greatest difficulty in finding a remedy for the disorder which was brewing if I had not received, in advance, positive information that certain individuals belonging to one of the parties into which those friars were divided, were holding their own sessions in the name of the assembly."[26] It seems that these churchmen were occasionally tempted to indulge in such sharp political practices that the viceroy felt the necessity of intervening in order to compose the factional fights and prevent scandal to the church. About the same time there was a meeting of the Augustinians in the Mexican capital, according to the same authority, which threatened such a breach of the peace that the viceroy had to call in the services of a member of the *audiencia*.[27] The Augustinians of the province of Michoacán likewise gave the viceroy some concern over the matter of bringing over some more members of their order so that there would be the proper alternation between the Spaniards and the creoles in the appointments to office.[28] Twenty thousand pesos had been provided for the expenses of the trip of these newcomers, and the whole matter was at last settled by an agreement between the viceroy and the archbishop, in pursuance of the *real cédula* of April 9, 1791.

The selection of the curates, or parish priests, offered very little difficulty to the vice-patron.[29] It was necessary for the names of three candidates to be presented, and the viceroy usually chose the one mentioned first, owing to the practical impossibility of deciding between the relative merits of the competitors.[30] This practice was identical with that long since prevailing in England.

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[26] Revilla Gigedo, art. 34.

[27] *Ibid.*, art. 33.

[28] *Ibid.*, art. 36. Also Mancera, p. 273. An explanation is given here of the policy of "alternation," which was not easy to carry out to the satisfaction of the Spaniards and creoles.

[29] *Ibid.*, art. 30.

[30] *Instrucción General*, pp. 59 and 60. Here the vice-patron was specifically ordered to examine into the merits of the three candidates proposed, and if none of them were suitable, reject all three and require a second trio of nominations. Watch was also to be kept upon the bishops in order that they might not allow vacancies to go too long unfilled, and appropriate the curate's salary to themselves.

where the king nominally has the appointment of the bishop or prebend but with rare exceptions chooses the first on the list.

In addition to the appointments among the regular clergy mentioned above and the overseeing of the elections in the monastic orders, there also belonged to the royal patronage a number of colleges, and among them there were forty-two fellowships and twenty chairs.[31] In these cases, also, the recommendation of the rector would probably have weight, but the choice lay with the viceroy if he cared to insist upon having it so. The remaining positions in these colleges or seminaries were filled according to the terms of their endowment, or by competition. One other appointment must be mentioned before leaving this part of the subject. In every diocese there was to be an official who was to go on circuit, as it were, with the object of remedying abuses and reporting upon them. This diocesan *visatador* was regularly appointed from the cathedral chapter.[32]

The second point of contact between the church and state in New Spain was the administration of justice. All the secular clergy enjoyed the *fuero eclesiástico*, which gave them practically as great an exemption from the operation of the ordinary law of the land as was claimed by Thomas Becket in the twelfth century. It was not until well toward the end of the eighteenth century that the common courts were given jurisdiction when a churchman committed a serious crime. It was during the rule of Branciforte, October, 1795, that a *real cédula* was issued depriving the ecclesiastics of these privileges. Two years before this, according to the viceroy, "Among the privileged jurisdictions, the chief one is the ecclesiastical, which in these dominions was formerly in a very high position (*en el mas alto punto*); but its limits have been reduced gradually, and finally it has been still further narrowed down by the decree that the secular courts have cognizance in matters affecting the principal and income of the church endowments (*capellanías*) and pious works (*obras pías*)."[33] These ecclesiastical tribunals conducted themselves in the same

[31] Revilla Gigedo, art. 37.

[32] Ribadeneyra, p. 275.

[33] Revilla Gigedo, art. 94.

manner as those in Spain,[34] that is, there was one for every small district in marked distinction to the tribunal of the inquisition, which sat in Mexico City but included within its district not only the whole viceroyalty, but also the Kingdom of Guatemala, the Windward Islands, and the Philippines.[35]

Although the church retained a much favored position, legally, for so long a time in the Spanish empire, the extinction of its most important privileges came before the beginning of the nineteenth century. Even before the decree of October, 1795, the viceroys had successfully maintained their right to decide disputes over jurisdiction (*competencia*), a right which has been called "one of the things which give the greatest authority to the employment of the viceroy."[36] All ordinary cases coming to the ecclesiastical courts had to be settled in the viceroyalty, or at least might not be appealed beyond the Council of the Indies. Appeals from the decisions of papal delegates, whether appointed *ad hoc* or of an ordinary cleric acting in that capacity, went to Rome itself. It would only be fair to state that long before limitations began to be placed upon the church courts in the reign of Charles III and Charles IV, there had been a great many noteworthy prohibitions in regard to what cases these courts could take cognizance of and what punishments they might inflict. As this topic is satisfactorily treated by Bancroft, nothing more than the reference will be given here; and the curious question of the right of asylum, which the church maintained at this time, will be taken up.[37]

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[34] Revilla Gigedo, art. 95.

[35] *Ibid.*, art. 96.

[36] *Ibid.*, art. 93.

[37] While Bancroft's treatment of the subject of the church in Mexico is valuable because of the wealth of material upon which his account is based, as well as the general sanity of his judgments, he has scarcely said the last word on the subject. For instance, on page 710, vol. iii, of his *History of Mexico*, he states that "the nuns were as contentious as the friars." His general reference in support of this statement is to Viceroy Mancera. No attempt was made to reconcile the statements of Mancera with those of Viceroy Revilla Gigedo (the Elder) who apparently deliberately exempted the nuns from such a charge: "En las religiosas y sus elecciones, poco ó nada tiene el Virey porque la blandura de su sexo con facilidad se reduce al dictamen de los prelados." Art. 168.

The custom of regarding certain churches and sacred places as rightfully giving sanctuary to criminals was an inheritance from Spain and the earlier centuries. Such a practice as the legal recognition of an asylum could only give undue encouragement to criminals. Charles III had diminished this evil in Spain by placing limits on the number of sanctuaries and the kind of malefactors that might take refuge in them. The popes cooperated with the royal authority to abate this evil and it was the duty of the viceroys to do all in their power to enforce these new regulations in America. It cannot be disputed that these numerous places of refuge for criminals gave unnecessary encouragement to a part of the population that ought not to have had protection, but that the whole question of the right of sanctuary was also one of very minor importance to the viceroy is equally indisputable. Because of this comparatively slight importance, the whole subject is dismissed with so brief a notice in the account here given of the duties of the vice-patron.

There remains one other phase of the broad question of church and state in New Spain which had caused no little difficulty to the viceroys in the sixteenth and seventeenth centuries, but which had been brought to a satisfactory settlement before the close of the eighteenth. The Inquisition had been introduced into Spain by the Catholic Kings about a decade before the first voyage of Columbus and had been supported there by succeeding rulers against all its enemies, even the popes and the church itself. In 1569 the inquisition with its tribunals was set up in Mexico with the same legal status that it had in Spain. However, the tribunal of the Holy Office in Mexico did not get along as smoothly with the viceroys as it did with the kings at home after the reign of Philip II. Bickerings and misunderstandings at last became so numerous that the crown thought it necessary to interfere. In 1610 Philip III promulgated the famous *Concordia,* which was designed to offer a *modus vivendi* consistent with the continued activity and usefulness of the Inquisition, but preventing its encroachment upon the rightful authority of the vice-

roys.[38] It is not possible to regard this *Concordia* as a definite settlement of all the evils it was intended to provide against. It was still possible for such serious disputes to arise that the inquisitors felt justified in excommunicating or threatening to excommunicate the viceroy, and for the latter to reply with threats of banishment.

In 1727 Philip V issued a decree ordering the viceroy to resist encroachments of the Inquisition upon the rights of the king, but to coöperate with it in carrying on its legitimate duties.[39] Twenty years later the inquisitor general prepared an elaborate regulation attempting to define the respective rights of his subordinates and the king's officers, though the former did not always live up to their instructions.[40] The reform legislation of Charles III settled in favor of the crown the disputes over *competencia*, giving the viceroy the final word in all these matters of disputed jurisdiction.[41] In fact, the later viceroys made little or no complaint of any troubles with the Holy Office, and there seems to have been a considerable relaxation of vigor on the part of the latter on the eve of the Spanish American revolution. The one criticism which Revilla Gigedo, in 1794, levelled against the Inquisition was that it had been the custom for its tribunal to publish the edicts or decisions without first submitting them to the viceroy. But on his complaint that this was a very strange procedure, "*cosa bien estraña*," the king ordered that in the future the viceroy was to be notified before any of the edicts of the Inquisition were published.[42] As the other instructions of the viceroys are silent in regard to this matter

[38] As a rule the viceroys speak respectfully of the Inquisition. Mancera, writing in October, 1673, said that "the tribunal of the Holy Office which resides in Mexico, having been granted the fullest jurisdiction and having been ennobled by many pontifical and royal privileges and exemptions, has been and is feared and respected with all veneration in these provinces . . . ." This same viceroy's comments on the Concordia are the only ones I know of from a viceregal pen. Mancera, *Instrucción de los Virreyes*, pp. 270 and 271.

[39] Bancroft, *History of Mexico*, iii, 700, note 57.

[40] *Ibid.*, note 58.

[41] Revilla Gigedo, art. 93. Before deciding a question of *competencia* the viceroy took the opinion of the *fiscal de lo civil*.

[42] *Ibid.*, art. 97.

of disputes between the representatives of the civil power and the Inquisition, it is fair to assume that there were no serious ones, and that some time before the final abolition of the Holy Office in Mexico, in 1821, it had ceased to be a vigorous, militant institution.[43]

As was stated in chapter III, about everything relating to education and charity was in the hands of the church. Therefore, no account of the administrative activities of the vice-patron would be complete without some reference to his relations to those forms of public philanthropy, these relations forming the third group of the viceroy's duties as vice-patron. It must be confessed that the part the viceroy had to play in these matters was scarcely more than nominal and belongs most certainly to that large class of minor duties which went to swell the vast number of governmental acts which he was supposed to perform. In only the most limited sense could the viceroy be regarded as a minister of education—any more than could the king himself in Spain be so regarded. The actual management of the schools and seminaries, and even the highest institutions of learning, was in the hands of the church and their respective faculties, and the authority of the head of the government was invoked only in cases of disputed jurisdiction, or petty details of ceremony.

The nearest approach to an actual direction of these eleemosynary institutions was shown in the appointment of the officials connected with them.[44] This was briefly described under the first division of the vice-patron's functions. Nevertheless, the supervision of the schools and hospitals extended somewhat further than the appointment of the principal officials. The duty of an occasional inspection fell to the vice-patron, as is illustrated by the case of the College of San Ildefonso which was improved by a visit of a couple of commissioners during the rule of the younger Revilla Gigedo.[45] The same viceroy did introduce one novelty, as the result of the royal *cédula* of June 11, 1792. The

[43] Bancroft, *History of Mexico*, iii, 701.

[44] Revilla Gigedo, art. 41.

[45] *Ibid.*, art. 38.

reform in question required that henceforth teachers in the universities, seminaries, and coeducational schools under the protection of the royal patronage must obtain a license from the viceroy before contracting marriage.[46]

The vice-patron had an opportunity to influence the course of educational policy, indirectly, by reporting to the king on things that interested him. If the power of the rector of one of the universities seemed too great, it was perfectly proper to incorporate this opinion in an instruction to a successor or even to the king direct.[47] Revilla Gigedo introduced his comments of displeasure in regard to the rector of the University of Mexico in his *Instrucción Reservada*. The viceroy thought it very shocking, "*muy chocante*," that the rector should allow his servants to carry arms when such a distinction was denied to the highest officials of the viceroyalty. The same viceroy criticised the curriculum and library facilities of the university, and advocated the carrying on to completion of the botanical gardens.[48] In such ways as these the vice-patron could influence the policy of the schools, though one cannot at present be sure to what degree or even in what direction.[49]

The power of the vice-patron over the hospitals of the country was similar to that which he possessed over the schools and colleges. The royal hospital for Indians, at the capital, was under the immediate care of the viceroy, who had been accustomed to delegate his authority over it by appointing a judge of the *audiencia*.[50] After 1791, in accordance with a command from the king, the *regente* was regularly given this position,[51] though the matter was complicated by the issuance later on of other

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[46] Revilla Gigedo, art. 40.

[47] *Ibid.*, art. 44.

[48] *Ibid.*, art 46.

[49] As there was really no such thing as secular education in Mexico and as the viceroys were always soldiers or priests, it is not believable that they attempted any serious reforms along this line. There is to be found an occasional reference to industrial training, but that seems to be all.

[50] Revilla Gigedo, art. 50.

[51] *Ibid.*, art. 51.

orders from Madrid of a contradictory nature.[52] The hospital of San Andrés, at the capital, was under the direction of the archbishop, a fact mentioned to show the lack of uniformity in the system of hospital administration and the absence of complete control by the vice-patron.[53] When the confusion of these arrangements became at all serious, a reference of the entire dispute or difficulty to Madrid was always in order, and few important steps were taken without word from the home government. In 1794 there was pending the question of the appointment of the second, or assistant, surgeon at the Indian hospital, as full information had been submitted to the king by the viceroy, but the royal decision was still to be made.[54]

From the foregoing review of the position of the vice-patron in New Spain, it must be apparent that his activities entitle him to only the secondary consideration of the modern student. Though he was the king's representative in everything touching ecclesiastical policy, he was never trusted to carry out any important measure on his own sole responsibility. An illustration from the history of the missions will answer as well as any. One of the most important steps taken in the eighteenth century in the furtherance of the mission policy was that one of Serra's, in California. But the interesting fact about the expedition from the point of view of Spanish colonial administration was, that it was set on foot and directed in the earlier stages by the *visitador general*, Gálvez, and not by the viceroy. In other details of administration the circumscribed character of the vice-patron's position was equally evident. If a hospital had to be suppressed[55] or a building constructed for the botanical gardens, the royal permission had to be secured, and throughout, the strict control of the home government was never relaxed. The most that could be said about the importance of the *real patronato* would be to the effect that it was increasing as time went on, and that it was

[52] Revilla Gigedo, art. 54.
[53] *Ibid.*, art. 59.
[54] *Ibid.*, art. 56.
[55] *Ibid.*, art. 47.

more extensive at the end of the Spanish rule than it had been at the beginning. The general tendency in the eighteenth century was for an extension of the power of the crown as against that of the church, even if the crown did not see fit to endow its representatives in America with any part of this increment of authority.

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[56] Revillo Gigedo, art. 57.

CHAPTER VI

THE REFORMS OF GALVEZ

A brief account of the place of José de Gálvez in the history of the office of the viceroy of New Spain was given in chapter I. The object of this chapter is to show in some detail what was actually accomplished by him after his return to Spain to fill the office of Minister General of the Indies. While his influence had been felt in all the departments of the administration of the Indies, and he was justly regarded as the prime mover of a great multitude of changes in the government of the Spanish colonies, it is scarcely too much to say that his greatest work as a reformer was embodied in two pieces of legislation of the most far-reaching influence. The first of these, chronologically, was the free-trade *reglamento* of October 12, 1778, and the second was the decree of the intendants, December 4, 1786.

It is difficult to say anything very definite about the antecedents of either of these laws, or to understand the exact motives which led to their promulgation. The life of Gálvez has yet to be written and the ordinary sources of information for the reforms of the reign of Charles III have not yet been made to contribute the information needed on these points. Florida Blanca's well-known *Instrucción Reservada* refers to these measures as among the real accomplishments of that age of enlightened despotism, but the allusions are too general to be of much value. It is necessary to fall back upon our knowledge of the general political and economic conditions of Spanish America in the last quarter of the eighteenth century, to give the desired light on the needs which this legislation was intended to meet.

There is some reason for believing that both these ideas, the idea of free trade between Spain and her colonies, and the idea

of introducing the intendant system into Mexico, originated in South America. At any rate, something very like the free trade decree of 1778 was temporarily put into effect by Cevallos in 1776 at Buenos Ayres; and the intendants were employed in South America about four years before they were introduced into New Spain.[1] In both cases the experiments must have been regarded as successful before they were made a permanent part of the new and reformed colonial system.[2] The first-hand information which Gálvez possessed of the needs of New Spain makes its reasonably certain that both these laws were made to apply there only after a settled conviction that they would prove beneficial to that country.

Because these reforms were so sweeping in their general character and were applied to so extended an area, it has been easy for writers to fall into error regarding their real purpose. Their intent was undoubtedly to secure a more efficient government for the colonies and to improve condiditions of life there for all classes of the inhabitants, but always incidentally to the increasing prosperity of Spain and the greatness of the empire. There is no evidence whatever that any reform was intended for the fundamental abuse which was afterwards remedied by the colonies becoming independent. This fundamental abuse was the directing of all things governmental in the colonies to the interest of Spain and a very small Spanish aristocracy in America, instead of to the interest of Spain and all the Spanish-American population regardless of race, color, or social conditon. The general efficiency of the administration was no doubt improved, but its general objects remained the same, and it is doubtful if the native population was essentially better off in 1800 than it had been a century before.

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[1] Although I have made the statement that the intendants were tried in South America before they were introduced into Spain, it is also true that there was an intendant at Havana before there was one at Buenos Ayres, so that in one sense it might be proper to say that the intendants were first tried in Cuba before they were introduced on the mainland.

[2] For an analysis of the decree of the intendants which was put into effect in Buenos Ayres, see the work by Quesada, referred to in the bibliography.

The first and most notable of the reforms usually credited to Gálvez was that relating to the commercial relations of Spain and her American colonies. Judging from the whole tone of Spanish legislation even at that time, it seems more likely that the object of this reform was not so much the benefit of the colonies as of the mother country, and although usually thought of as a measure bringing relief to the colonies, it was quite as much a relief to Spain herself.

The process of removing the various restrictions on trade between Spain and America was a slow one and by no means accomplished at one stroke by the issuance of any one law. These later changes were foreshadowed as early as 1718, when the *Casa de Contratación* was removed from Seville to Cádiz. Later on the old fleet system was abandoned and a disposition was shown to relax the artificial restraint on trade. About the middle of the eighteenth century a number of new ports of entry were created in Spain, and in 1776 Viceroy Cevallos at Buenos Ayres threw open that port to the trade of all Spanish vessels. By this time there was no one who had a good word to say for the old system, unless we except a few merchants in the city of Cádiz who enjoyed certain monopolies and privileges under it. Consequently, the way having been prepared by those previous changes for a definite break with the old system, there was little difficulty in putting into effect the great *reglamento* of October 12, 1778.[3]

This *reglamento* contained, in its fifty-five articles, a statement of the new rules and regulations governing the trade of the mother country and the colonies, both in America and the Philippines, and in the *aranceles* appended after these articles were given the schedules that were to go into effect under the new dispensation. The whole document is so interesting in the light

[3] There are two copies of this *reglamento* in the Bancroft Library of the University of California, one in the twelve-volume set of *Órdenes y Cédulas Reales*, and the other bound separately. Important as this document is, it has never been incorporated in any of the three great collections of the *Documentos inéditos*. It ought to be supplemented by many other explanatory documents of a much later date in order that the full effects of the new attempt at freer trade may be understood, as for example Branciforte to Paz, Oct. 27, 1796. Also Revilla Gigedo to Valdez, Feb. 28, 1790.

it throws on the trade relations of the period after 1778, and is so essential to any clear ideas of the meaning of the changes wrought at that time, that a short summary of its contents seems necessary.

After the fashion of most royal documents issued in Spain, the *reglamento* begins with a prefatory declaration of the intent and purpose of the king in promulgating it. The first article plunges *in medias res* with a statement of the qualifications which a ship must have in order to be allowed to trade with the Indies. Normally only Spanish vessels, built in the country, were to be given these privileges, but an opportunity was offered to Spanish merchants to acquire foreign-built ships and operate them in the colonial trade. However, every encouragement was to be given to those built at home, and this purpose was stated in Article II. Of similar nature were the regulations in Article III, in regard to the crews of the ships and their nationality.

The next two articles constitute a small group by themselves, and declare what are to be the *puertos habilitados* in Spain, Balearic Isles, and the Canaries, as well as in America. This multiplication of the harbors that might really receive ships was one of the most important provisions of the laws, and struck a blow at the monopoly held hitherto by a half-dozen sea-ports, like Cádiz, Santander, Seville, Vera Cruz, and Puerto Cabello.

The succeeding articles were not arranged in any discernible logical order but can be grouped together, for the sake of convenience, in the following manner. Numbers seven, eight, nine, thirty-six, forty, and forty-six are given over to defining methods to be pursued in the actual management of the ships, such as the obtaining of clearance papers and preparing ships' manifests, sending the vessels back on the return voyage, securing the cargoes in America, releasing goods held in bond, and arranging for the sailing of ships in company for mutual protection and assistance. In this same group, perhaps, ought to be included number twenty, which prescribed the latitude allowed a captain in putting in to other ports than the one demanded by his clearance papers.

Articles six, sixteen, twenty-two, twenty-four, thirty-three, forty-eight, and fifty dealt with certain specific encouragements which the king granted to the merchants engaged in colonial trade. These took the form, in the main, of a reduction of port dues and taxes, sometimes affecting the ships themselves and sometimes the goods they carried. For example, Article XVI deals with the reduction of taxes on vessels bound for America, while Article XXII grants certain abatements of duties of Spanish manufacture. Articles forty-eight and fifty give similar encouragement for the trade with Louisiana, particularly on the peltries exported from New Orleans.

Articles ten, eleven, thirteen, fourteen, and thirty supplement the laws of the Indies in regard to the licensing of persons going to America and provides punishment for those who immigrated without proper authorization. Adults had to show that they were of good character and were going to the colonies for legitimate business, while minors had to secure the consent of their parents or guardians. Among other things, married men were required to secure the consent of their wives before leaving home. Article XXX further directed penalities against those who falsified official papers of any kind, or trade-marks.

The remaining articles defy any attempt at classification and so must be put down simply as miscellaneous. Some dealt with taxes or duties, as Article XVII, with its provisions regarding port dues in America. Article XII made it illegal for a ship to attempt the return voyage from America without first having been inspected to see whether it was seaworthy. Article XVIII condemned the substitution of goods of foreign manufacture for those from Spain, when cargoes were being prepared for the outward voyage. Article XXI dealt with the increased prices which might be charged for goods after they had been shipped to America, and Article XXXVIII prohibited the re-exportation of goods from America after they had once been landed there. The only other article that need be referred to here was perhaps the most famous of them all, number fifty-three, which called for the establishment of *consulados* in all the *puertos habilitados*,

where those institutions did not already exist. As this article is commented on at some length in chapter IV, no attempt will be made to discuss it further.

Although the summary just given of the free-trade *reglamento* is not detailed enough to be dignified by the title of an analysis, it has outlined the principal points found in the document. It may seem at first glance as if this decree had only an incidental relation to the subject of the government of the viceroyalty of New Spain, but its influence on all the colonies was so great that some mention of it could scarcely be avoided in any treatment of the viceregal government, toward the end of the eighteenth century. Practically every writer whose name is at all prominently identified with this period of history speaks of this reform as resulting in a great increase of trade. No authoritative statement has yet been made of all the results flowing from this decree, and Humboldt's discussion of it in his *Political Essay on New Spain* still remains the best that has been put forth.

The following considerations will, however, go far toward explaining why the Gálvez internal reforms appeared just when they did. In the first place, overwhelming evidence had been brought home to the Spanish crown that the Indians throughout the New World were in an extremely unhappy position. The alarming growth of drunkenness and various forms of debauchery, such as the elder Revilla Gigedo described, indicated something like despair in the lower strata of the Mexican population, while the prolonged and desperate revolt of the Peruvians under Tupac Amaru gave unmistakable warning that a danger point had been reached among the inflammable subjects of the Kingdom of the Indies. In the second place, the alarming example set by the English American colonies had at least made an impression in Madrid, and even if there seemed no immediate danger of a Spanish-American revolution, the attention of the Spanish statesmen was turned toward the colonies as never before. In the third place, it was not to be denied that the viceroy was grievously overworked, a fact which must have been patent to the man who had been for so many years the visitor-general to

New Spain.[4] The cutting down of a great part of the viceroy's duties, which was the first effect of the decree of the intendants, could scarcely have been unintentional. The later restoration of a great part of these lost powers brought back the old trouble, though the second change was thought necessary for other reasons. Finally, the craze for uniformity was on at this time in the government of Charles III, and as the intendants had done very well in Spain, and as the Americas were now supposed to be civilized up to a nearly equal level, the extension of the system of government by the intendant could seem nothing less than the obvious thing to do.

There seems no better way of arriving at a real knowledge of exactly what the decree of the intendants was, than to make a somewhat extended analysis of the document itself. In its printed form it constitutes a large volume of four hundred and ten coarsely printed pages and with an *índice* of sixty pages more. It is a much more voluminous document than the one issued in 1749 for the intendants of Spain, and goes into great detail regarding the duties of the newly created officials. Its full title is, "Royal Ordinance for the Establishment and Instruction of the Intendants of the Army and Province in the Kingdom of New Spain." The whole document is made up of a preamble and three hundred and six articles which may be grouped as follows: The first fourteen articles, dealing with the intendant system as a whole, and defining its relation to the

[4] Revilla Gigedo, art. 837. After 1793 there were actually only eleven intendants, for by the royal order of April 18 of that year the intendancy of Mexico proper was united to the viceregal office. This undid in a measure the relief to the viceroy which the decree of the intendants promised originally to give. Revilla Gigedo seemed to imply that it would have been possible for the viceroy to act as intendant as well, if he were only given four additional officials to assist him. It would seem, then, that the viceroy was quite as busy a man after 1793 as he was before 1786. Marquina, writing in 1803, urged very strongly the restoration of the intendant-corregidor for the province of Mexico, and he communicated his views to Madrid in letters of July 27, 1800, and June 26, 1802. He complained that it was a fearful waste of time and energy to force the viceroy to burden himself "with the numerous petty details which this intendancy gives rise to." Most of these duties could be discharged by a subordinate official, and if this were done more time would be had for many real important matters of policy which were then neglected. Arts. 308–310.

viceroy and the other officials of the country; articles fifteen to fifty-six inclusive, dealing with the *causa de justicia;* articles fifty-seven to seventy-four inclusive, dealing with the *causa de policía;* articles seventy-five to two hundred and forty-nine inclusive, dealing with the *causa de hacienda;* articles two hundred and fifty to three hundred and five inclusive, dealing with the *causa de guerra;* and article three hundred and six concluding the document with the statement that it has the force of law and revoking all other regulations in conflict therewith.

The preamble or enacting clause of this law is a kind of exordium and statement of the general purposes for which the decree was intended. It runs as follows: "Moved by the paternal love which all my vassals merit, even the most distant, and by the lively desire which I have felt since my elevation to the throne to make uniform the government of the great Empire which God has confided to me, and to place in good order, felicity, and defense my extensive dominions of the two Americas, I have resolved, with very well founded information and mature examination, to establish in the Kingdom of New Spain intendants of the Army and Province in order that, endowed with sufficient authority and salaries, they may govern those peoples and inhabitants in peace and justice in those things which are confided to them in this instruction, that they may take care of its police, and maintain the legitimate interests of my royal treasury with that integrity, zeal, and vigilance which the wise laws of the Indies prescribed, and the two royal ordinances which my august Father, Philip Fifth, and my beloved brother, Ferdinand Sixth, published on July 4th, 1718, and October 14th, 1749; whose prudent and just rules I desire to be observed exactly by the intendants of the aforesaid Kingdom with those additions and restrictions which will be explained in the articles of this ordinance and instruction." This extensive quotation is here incorporated in the text because it shows the official and formal statement of the purposes back of the law. The actual provisions appear in the later three hundred and six articles.

The first article begins with the division of "that empire," meaning the viceroyalty, into twelve intendancies, excluding the Californias. Each intendancy was to be known by its capital city, where the intendant was to reside. One of the said intendants was to have the special title of *Intendente General de Ejército y Provincia,* and was to reside in the capital city of the viceroyalty. As a matter of fact, this intendant was to be known as *superintendente general de real hacienda* and was to be the immediate superior of the other intendants, who were to be known simply as *intendentes de provincias.* The capitals of the provincial intendancies were Puebla, Vera Cruz, Mérida, Oaxaca, Valladolid, Guanajuato, San Luis Potosí, Guadalajara, Zacatecas, Durango, and Arispe (for Sonora and Sinaloa). The king reserved to himself the nomination of all these intendants, committing to them the "immediate government and protection of my peoples."

The second article reserved to the viceroy all his usual general powers, but gave to the *superintendente* the entire control of the *real hacienda.* Article III defined still more accurately the relation of these two highest officials one to another and to their subordinates. Article IV determined the composition of the *Junta Superior de Real Hacienda.* This body, which was easily, next to the viceroy himself, the highest single authority of New Spain, was made up of the following officials: after the superintendent, who was ex-officio president, was the regent of the *audiencia,* the fiscal of the *hacienda,* the senior member, *ministro,* of the tribunal of accounts, and the senior accountant, or treasurer-general of the *hacienda.* The secretary of the superintendent's office was always to be present. Article V simply arranged for substitutes, when for any reason a regular member of this *junta* had to be absent. The sessions and duties of the *junta* were defined in Article VI, and it was stipulated that the sole intermediary between it and the crown was the *Despacho Universal de Indias,* or the colonial office in Madrid. Matters of justice growing out of ordinary governmental disputes, or relating to the *causas,* or departments, of police and government,

were to be appealed over the intendant's head to the various *audiencias*. The government in matters political of the large cities such as Puebla, Oaxaca, Vera Cruz, Valladolid, Guanajuato, San Luis Potosí, Zacatecas, and Mexico, as well as the outlying provinces of Nueva Viscaya, Sonora, and Sinaloa, was to be given to their respective intendants, and their *corregidores* and *alcaldes mayores* were *ipso facto* suppressed. Article VII further provided a basis for the relations of the intendants and the other officials of the king, such as the military commandants of the frontier provinces.

Article VIII stated that with the exception of those of Mexico, Guadalajara, Arispe, Mérida, and Vera Cruz, the intendants were to exercise the royal patronage, but in the above-mentioned jurisdictions the viceroy, the *regente*, the *comandante general* of the frontiers, and the captain-general, respectively, were to retain that sovereign power. For some reason or other the intendant of Puebla was to have the patronage for the intendancy of Vera Cruz. The rulers of Puebla and Nuevo León were to exercise the royal patronage as subdelegates of the viceroy.

All the other *corregidores* and *alcaldes mayores*, besides those expressly mentioned in Article VII, were by Article IX suppressed and their duties united with the others possessed by the intendants. Also, an attempt was made in this same article to remove one of the standing anomolies in the administration of justice by depriving the descendants of Cortés of their special rights to *corregimientos* and *alcaldías mayores*, or at least of continuing them only temporarily till some other reward could be invented as a substitute.

By Article X it was provided that the civil and military governors of Yucatán, Tabasco, Vera Cruz, Acapulco, Nuevo León, Nuevo Santander, Coahuila, Texas, and New Mexico, were to retain their jurisdiction in matters of justice and police, except in the handling of the revenues and public property of the cities. The commandant, *castellano*, of Acapulco was to have authority only over the city and its immediate environs, but as soon as the intendant system was well enough organized to permit the selec-

tion of subdelegates, the latter were to be introduced everywhere excepting in Yucatán, Vera Cruz, and Campeche.[5]

In Article xi the provision for the *alcaldes ordinarios* is found. With the wiping away of the old *corregidores* and *alcaldes mayores*, the intendants became the *justicias mayores de provincias*, but they were not to stand in the way of the *alcaldes*, who were in reality to become their chief agents in the administration of justice. All cities and villages with a Spanish population of sufficient size (no definite number being specified) were to elect two *alcaldes* within a year after the decree of the intendants was put into effect. If in any place there was no *ayuntamiento* to do the electing, the governors or intendants were to make the appointments conformable to the spirit of the law. These *alcaldes* were to have a biennial term, one retiring every year, and the senior or holdover judge was to instruct the newly elected one in the duties of his office.

In every Indian village which was the capital of a *partido*, or subdivision of an intendancy, and in which there had been a lieutenant of the governor, a *corregidor*, or an *alcalde mayor*, there was to be placed a new official called a subdelegate, who was to have jurisdiction in the four *causas* (justice, police, *hacienda*, and war) and who must be a Spaniard. This official, after bonds had been furnished, was to be responsible for the good order and obedience of the natives of his district. These subdelegates had to be formally appointed by the intendants exclusively,[6] unless special exception was made, and they were

[5] The subdelegates were a very important part of the new body of officials created by the ordinance, being, in the language of one of the viceroys, "the instruments through which the provisions (of the decree of 1786) were to be put into effect and upon which must depend in the beginning the good government of the small towns." These subdelegates were to exist along side of the *alcaldes ordinarios*. Revilla Gigedo, art. 847 and 848.

[6] This provision was changed considerably by the *cédulas reales* of March 28th, and October 25, 1787, which gave the viceroy a share in the selection of the subdelegates. Later, by the royal order of October 7, 1788, it was declared that no subdelegate might be appointed without the consent of the viceroy. In practice, the intendants proposed three names from which the viceroy chose one, or even one not of the three, in which latter case his reasons had to be submitted to the king. Revilla Gigedo, art. 859 and 860.

not to be subject to taxes. In those districts where the intendants did not possess plenary powers, the subdelegates were to be chosen by agreement between the intendant and the governor, but in no case were any of these officials or combinations of them to make any more *repartimientos* under the severest penalty. In case the intendant should desire to create new subdelegacies he was to refer the matter to the *junta superior de hacienda*, and if consent were given by that body, notice of the proceeding was to be sent to the king by the *vía reservada de las Indias*. This meant communicating direct with the Minister of the Indies instead of through the Council of the Indies.

In spite of the above provisions in regard to the subdelegates, it was not intended that the privilege of holding office in the Indian settlements should be reserved exclusively for Spaniards. In Article XIII the will of the king was declared to be that the old rights and customs of the Indians be preserved, and that annual elections be held for the various local officials, in order to carry out the economic side of the local government, "para su regimen puramente economico." The chief duty of these officials was to collect the tax known as the tribute, which was levied on every male Indian between the ages of eighteen and fifty.[7] In order to avoid disputes and disturbances among the natives at these elections, it was decreed that they be held under the presidency of the subdelegate, or some other Spaniard.

The provisions just referred to were amplified in Article XIV to this effect. When the elections were completed at the time and manner prescribed, the subdelegate, or *alcalde ordinario*, had to report to the intendant or the governor, as the case might be, for his approval. In the choice of these lowest officials preference was to be given to those who understood the Spanish language and to those who had distinguished themselves, "in a commendable application to agriculture and industry." In this way it was hoped that by gentle and opportune efforts the

[7] The *tributo* of the Spaniard was a capitation tax instead of a hut tax, as in parts of South Africa, or a tax payable in agricultural produce, as in Java, or a land tax, as in India.

Indians would be inclined to take an interest in the elections, devote themselves more earnestly to industry, and learn to speak Spanish.[8]

The first of the four main divisions into which the work of the intendants was divided was called by the Spaniards the *causa de justicia*.[9] This was scarcely the first in importance of the intendant's duties, but as it comes first in the Ordinance, it will be given first place here. In all his work the intendant was assisted and advised by an officer called the assessor, *asesor*, who was not only expected to be his advisor under normal conditions, but was to take the intendant's place temporarily in case of death, sickness, or other disability.[10] This *asesor* was to be a lawyer and was to act regularly as the chief civil and criminal judge of his district, which meant the intendancy. The *asesor* of the *intendente general* at the capital was likewise to succeed his chief with full powers, in case of the latter's incapacity to serve.[11] The assessors were appointed in the following manner. The candidate had first to be approved after examination by an *audiencia*, and then three names were submitted for a given office by the Council of the Indies. One of these three was chosen by the king, for a term of five years, with a salary fixed at twenty-five hundred pesos a year besides perquisites. They were not removable except for cause shown and the approval of the king or the Council of the Indies.[12] They might, however, be suspended by the *junta superior*, on the representation of their intendant. Appeals from the decisions of the *asesores* were to be taken to the *audiencia* of the province.[13]

The duties of the intendants themselves as head of the department of justice were so numerous as almost to defy classification,

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[8] Villarroel's great objection to this whole Ordinance was that it did not do enough for the natives.

[9] The Spanish words *causa* and *ramo* mean division, branch, or department. The former was applied to a branch of the government, while the latter was applied to a government monopoly, as the *ramo de tabaco*.

[10] *Ord. de Int.*, art. 15.

[11] *Ibid.*, art. 16.

[12] *Ibid.*, art. 18.

[13] *Ibid.*, art. 19.

but the following summary will be attempted. They were first of all, as successors to the *corregidores*, mayors of the capitals of the intendancies, and as such, of course, presided over the *ayuntamiento* and at all public municipal functions.[14] They were to be in a general way responsible for the enforcement of the law within their province.[15] In particular they were to watch over the native population, seeing to it that the local officials did not tyrannize over the Indians or act with "prejudice, passion, or vengeance."[16] One of the most common abuses to be guarded against among their subordinates was extortion, in the form of collecting excessive taxes.[17] They were expected to make a tour of inspection of their districts,[18] with the purpose not merely of seeing that the laws were enforced, but of promoting agriculture, commerce, and the development of the mines. If it were impossible or inexpedient to make these official visits in person, they might send subdelegates in their stead.[19]

With the object of securing greater uniformity in the administration of the municipal funds of the Spanish cities and towns, and also of the communal property of the Indian pueblos, the administration of these matters was referred primarily to the *junta superior* of Mexico.[20] Whatever this council might decide was then to be carried into effect by the intendants as its agents. Also the central office of the general auditing department of the *real hacienda*, the *contaduría general*, was to remain in the City

[14] *Ord. de Int.*, art. 20.

[15] *Ibid.*, art. 21.

[16] *Ibid.*, art. 22.

[17] *Ibid.*, art. 23.

[18] *Ibid.*, art. 26. Also Revilla Gigedo, arts. 844–846. The viceroy explained in these articles why it was that this provision of the law of the intendants was not fully carried out. In spite of his repeated orders for its observance, only the intendants of the following provinces complied by the year 1794: Puebla, Valladolid, Guadalajara, Yucatan, Zacatecas, San Luis Potosi, Sonora and Guanajuato. The two chief reasons why the law was not more thoroughly observed were the expense and the difficulty of the intendants' leaving their regular posts for so long a time. The viceroy believed, however, that great good would result from these tours of inspection.

[19] *Ord. de Int.*, art. 27.

[20] *Ibid.*, art. 28.

of Mexico as it had been established by the visitor-general in 1766. This department, besides doing the work of auditing as we understand it at the present time, was to prepare the various orders and despatches necessary to carry out the decisions of the *junta superior*. The head of the auditing department, *contador general de propios y arbitrios*, was to be the permanent secretary of this *junta*, and the person to whom the intendants made their report on the subject of municipal finance.[21] At the beginning of each year the intendants were expected to send in a complete statement of the revenues and expenses of their intendancies and these reports were to be tabulated and interpreted in the auditing department before they were submitted to the *junta superior* and to the authorities at Madrid.[22]

The final clause of the decree of the intendants which relates directly to the administration of justice is an exhortation for them to have special care that the decisions and judgments of the subdelegates and minor officials should be in conformity with the law and that they be not allowed to fall into corrupt practices. That this might be done the more efficiently the intendants were directed to correspond with the regents of the *audiencias*.[23] Finally, all matters worthy of a report at all were to be referred normally to the viceroy and the superior tribunals of New Spain; but in case of emergency or special need the intendants were authorized to correspond directly with the king through the Minister to the Indies, indicating in each case whether a report was also made to the aforesaid authorities of New Spain.[24] This provision for direct communication between the intendants and the king concludes that part of the decree of the intendants relating to the *causa de justicia*, and it is now necessary to take up the duties of the intendants under the *causa de policía*.

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[21] *Ord. de Int.*, art. 29.

[22] *Ibid.*, art. 33.

[23] *Ibid.*, art. 55.

[24] *Ibid.*, art. 56. The viceroys occasionally voiced their jealousy of the independence of the intendants in their correspondence with Madrid. Branciforte, 169 Reservada, Sept. 28, 1795.

The department of *policía* was quite as miscellaneous in character as the department of justice and must have been a kind of catch-all for the legislators who framed the decree of the intendants.[25] The first article under this division calls for the preparation of maps of the separate intendancies. These maps were to contain all kinds of topographical details, such as mountains, forests, rivers, and lakes, as well as the boundaries of the provinces, and this work was to be committed to qualified engineers.[26] They were also to furnish information on the climate and productions of the various districts; the character of the rivers with reference to a possible improvement of them for navigation; the places where bridges and aqueducts might be built; and the general betterment of internal communications, together with the harbors for foreign commerce. These reports were intended to be a later basis for the actual reforms to be carried out by the rulers of New Spain.[27]

Although the well-being of the whole population was charged upon the intendants in the *causa de justicia*, there was a special injunction also to look after the public morals, in Articles fifty-nine and sixty, under the *causa de policía*. The subordinate officials, *jueces subalternos*, were expected to keep a watch on the customs and mode of life of the populace, to castigate the idle and evilly inclined, and all those whose vices "disfigured the fair face of the republic."[28] Under no pretext, however, was this provision of the law to be made an excuse for prying into the private and domestic affairs of the inhabitants. The care of the idle, criminal, and the indigent was to be in the hands of the intendants. Vagabonds and beggars who were physically capable were to be sent to work on the government roads, or to the poorhouses, according to their strength.[29] The criminals of the community were to be rounded up and sent to prison or to the

[25] The word *policía* is not easily translated. Either of the English words police or policy might be used for it, but the former has been chosen arbitrarily to represent its meaning.

[26] *Ord. de Int.*, art. 57.

[27] *Ibid.*, art. 58.

[28] *Ibid.*, art. 59.

[29] *Ibid.*, art. 60.

army or navy, whichever seemed best. The most hardened cases were to be sent to the mines and the presidios as ordinary convicts.

Practically all the remaining articles under the *causa de policía* deal with the encouragement of industry in its various forms. Agriculture in its widest sense was in no wise to be neglected by the intendants. Cultivation of the crops that were supposed to be especially suited to Mexican soil and climate, and which would be least objectionable through competition to the Spaniards in Europe, was to be increased by every means possible. The collection of cochineal,[30] which was at that time one of the declining native industries because of the wasteful methods involved by the gatherers of the insects, the raising of flax, hemp, cotton, and silk, were all to receive government aid.[31] A greater utilization of the water supply of the country for irrigation, the improving of breeds of stock, and the conservation of the forests were all placed under the same category as worthy of royal protection.[32] The public lands were to be divided up into small tracts and sold to the natives at reasonable prices in order that they might be put to the best use and a system of agriculture based upon small holdings and peasant proprietorship be developed. The general level of property values was to be raised by the building of roads and bridges and a better management, while inland transportation was to be furthered by increasing the general use of wheel vehicles.[33]

Everything that was prescribed for the country was to be done, as nearly as conditions would permit, for the cities.[34] What the governor or viceroy was for the City of Mexico, the provincial intendants were to be for the towns and cities other than the capital. This implied a general oversight of the building and repair of streets, public buildings and churches, water supply, and fire protection, and all other municipal activities.[35]

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[30] *Ord. de Int.*, art. 61.

[31] *Ibid.*, art. 62.

[32] *Ibid.*, art. 63.

[33] Ord. of Int., arts. 64 and 65.

[34] *Ibid.*, art. 67.

[35] *Ibid.*, arts. 68 and 70.

Finally the intendants were to send in crop reports four times a year for the information of the viceroy and the central government, and administer the public granaries in their own provinces.[36] The protection of the coinage and monetary system from the different abuses to which it was liable was the last injunction of that part of the decree which dealt with *policía*.

That division of the intendant's duties which was third in order in the Ordinance was easily first in importance. There seemed no limit to the variety of things which the intendants were expected to do, but if some one group of their functions had to be singled out as being of the most consequence, it would undoubtedly be that group which is entitled the *causa de hacienda*. It was in this department that they were expected to bring about such reforms as would put new life and vigor into the whole internal administration of the viceroyalty and confer extensive benefits on the whole population of New Spain.[37] With these facts in mind, it is quite possible to see the reason for the detail into which the law descended on this subject.

From the first articles of this chapter of the law it would appear that the intendant was primarily a judge in all cases touching in any way the royal treasury. All other tribunals were expressly forbidden to have anything to do with such cases, and appeals over the intendant's head were to be taken to the *junta superior* at Mexico, itself a court of the department of the *hacienda*.[38] Even lawsuits growing out of the management of the monopolies of tobacco, *pulque*, powder, and playing cards, and *alcabala*, although under a separate administration, were to be judged in the first instance by the intendant or his subordinates.[39] Cases involving public lands, frauds against them, sales, grants, and the like, as well as all questions about confiscated property, prizes taken at sea, shipwrecks, and so on, belonged to the same jurisdiction.[40] All royal orders and decrees

[36] *Ord. de Int.*, art. 71.

[37] *Ibid.*, art. 75..

[38] *Ibid.*, art. 78.

[39] *Ibid.*, art. 79.

[40] *Ibid.*, arts. 81–83.

touching the department of *hacienda* were to be given to the intendant for enforcement.[41] In case of any conflicts of jurisdiction between the intendant and any other tribunal, the former was to submit his reasons to the latter, go ahead with the decision of the question, and report to the king on what he had done.

In order to invest the intendants with all the dignity and privileges possible, they and their families and servants and their official subordinates were given the *fuero militar*, and they were also allowed to enjoy the benefit of the *montepío militar* as well.[42] All the officials of the *hacienda*, from the intendant down, were to receive ample salaries but were forbidden to engage in trade of any kind or to receive any other emolument or perquisites.[43]

For the sake of uniformity and to allow the central authorities to keep in touch with the financial operations in the various intendancies, it was required that every extraordinary expense should be reported to the *junta superior*.[44] In pursuance of this same plan, each intendant was to prepare an annual statement, *libro de la razón general de la real hacienda*, of the incomes and expenditures of his province. This *libro* was to contain a statement of the entire income of the treasury, whether from such general sources as the *alcabala* and the tribute, or from such special branches as the ecclesiastical revenue, *mesadas*, *cruzada*, and the like, or from such unusual sources as the *montepíos*.[45] The expenditures were to be grouped under the following six "fixed charges": 1, *real hacienda;* 2, political; 3, ecclesiastical; 4, military; 5, perpetual pensions; 6, temporary pensions.

Although enough has already been said to show that the intendants were very important financial officers, it seems necessary to explain whence these revenues came. The first source of revenue dealt with by the Ordinance was that of the tribute.[46]

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41 *Ord. de Int.*, art. 84.

42 *Ibid.*, art. 85.

43 Revilla Gigedo, arts. 912–914.

44 *Ord. de Int.*, art. 108.

45 *Ibid.*, arts. 109–113.

46 *Ibid.*, arts. 126 and 127.

The central office for the administration of this department was the *contaduría general de reales tributos*. In a sense, the intendants were the agents of this body for the collection of the tax on the Indians. This work had been done formerly by the corregidors and *alcaldes mayores*, but was now transferred to the intendants, though the actual collections were made by the subdelegates and the lowest officials in the Indian villages.[47] The next source of revenue dealt with was the famous *alcabala*. This tax was levied at the various custom houses of the city, though it was supposed to be a tax on sales.[48] An exceptional position was held by the chief of the custom house of the City of Mexico, who was less directly dependent on the intendant. The third source of revenue was *pulque*, which, in spite of the evils it caused, had to be retained for the sake of the profits brought to the government. Article one hundred and forty-six of the Ordinance discussed the extension of the *pulque* industry and the means to be taken to extinguish the traffic in other pernicious beverages.

It would be impossible within the compass of a chapter to do more than enumerate the remaining sources of income enjoyed by the government of Mexico. There was a large number of special sources, such as government monopolies of powder and playing cards, and the taxes levied on mercury, paper, and the *medias-anatas*[49] and *lanzas*.[50] The old royal fifth on gold, silver,

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[47] *Ord. de Int.*, art. 129. The income derived from the *tributos* was always one of the principal items of the entire Mexican revenue. The total revenue of the country in 1791, according to Revilla Gigedo, amounted to 19,000,000 pesos, which was three times as much as it was when Gálvez first came to America in 1764. The tribute was originally paid in kind, but in the year 1651 it was ordered to be paid henceforth in money. Revilla Gigedo, arts. 741 and 931.

[48] *Ord. de Int.*, arts. 144 and 145. The Indians were exempt from the *alcabala*, as it was intended that the tribute should be their peculiar tax. Owing to the difficulty of collecting the latter it was proposed to abolish it and substitute the *alcabala* to make up the required revenue. In 1794, the tribute amounted to about 1,500,000 pesos, and the cost of collecting it was 100,000 pesos.

[49] *Ord. de Int.*, art. 156. . . . *Medias-anatas* were granted to Ferdinand VI by Pope Benedict XIV in May, 1754, but it was not until October, 1775, that advantage was taken of that bull. Ord. of Int., art. 200.

[50] *Ibid.*, art. 158.

and other metals still remained, and though certain concessions were made to private individuals to develop the mining industry, it was still very profitable to the king. The bulls of the *Santa Cruzada* continued to bring in considerable revenue, as did also the tithes which belonged to the king.[51] *Juntas de Diezmos* or councils for the administration of the tithes, were to be established in the most important cities, and the intendant was to act as chairman of the *junta* in his province.[52] Taxes called *cuartas episcopal y capitular*, or episcopal fourths, and the *reales novenos*, or royal ninths, were still retained and collected by the intendants. These and other taxes were retained with very little change by the law of 1786, and but few modifications were introduced at the time. One of the new provisions, which was not of a purely financial character but which was put in force by the Ordinance, was that relating to the various *juntas de almonedas*, or councils of auctions, which were henceforth established in the principal cities.[53] The above list of sources of revenue is not even a complete enumeration but shows the variety and demands on the intendant's time and attention.

Every year general inventories or statements of the fiscal condition of the province had to be prepared by the intendants and sent to their chief in the City of Mexico.[54] Watch had to be kept of every person employed in the *real hacienda* in order to observe his capacity and conduct, and be able to correct his faults.[55] Frauds of all kinds against the revenue laws were to be guarded against by the intendants with all possible care, and they were to have power to confiscate goods brought into the country contrary to the law.[56] Above the intendants as courts of appeal and as administrative bodies giving orders, were the two *juntas*, the one, the *junta superior de real hacienda*, and the

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[51] *Ord de Int.*, art. 165.

[52] *Ibid.*, art. 170.

[53] *Ibid.*, art. 164. These *juntas* had control of the sale by public auction of certain public offices.

[54] *Ibid.*, art. 237.

[55] *Ibid.*, art. 238.

[56] *Ibid.*

other, the *tribunal de contaduría de cuentas.*[57] The superintendent-general was to have the same powers in New Spain that the officer of the same title enjoyed in Spain. The last articles in the Ordinance dealing with the *causa de hacienda* define the relations of all the various officials in this department from the chief at Mexico to the intendants in the provinces.[58]

The fourth of the great departments presided over by the intendants was called by the Spaniards the *causa de guerra.* This was the branch of the government which had charge of the maintenance of the provincial troops in peace and war and constituted what in most countries would be called the war department. In Mexico, however, instead of one central war department with a concentration of all these powers in a central ministry of war, there were established twelve intendancies. These provincial rulers were subordinate to the general intendant in the City of Mexico, but in the nature of things had a good deal of independence in practice. In the language of the law itself, "Being my royal wish that the intendants of the provinces have a care for all that which corresponds to war and has a connection with my *real hacienda* . . . ."[59] This was defined by a later article to mean everything pertaining to the subsistence of the troops, their management and discipline, and general improvement.[60] Likewise was included everything relating to their pay, to their establishment in quarters, and the issuance of rations. The intendant had charge of the movement of the troops from one province to another, and their assignment to various military organizations, and the Ordinance prescribed the formalities which had to be observed in doing this.[61]

In order to carry this out more effectively it was necessary to collect reserves of provisions at the military posts and large cities, and take great care that none of these supplies were mis-

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[57] *Ord. de Int.*, arts. 242 and 243.

[58] *Ibid.*, arts. 248 and 249.

[59] *Ibid.*, art. 250.

[60] *Ibid.*, art. 252.

[61] *Ibid.*, art. 253.

appropriated by the minor officials or issued without proper authorization.[62] The soldiers had to be protected against foods which were adulterated or of inferior quality, and in the purchase of supplies the government had to be protected against similar frauds and dishonest weights and measures.[63] All these things and innumerable others were placed in the hands of the intendant by the law of 1786. Horses and fodder, firewood, and other necessities, carts and other means of transportation, were furnished through the intendant's office.[64] The military forces stationed in the province were to be reviewed every month. All the officials of the commissary department down to the mere clerks and attendants were directly under the command of the intendant, so that no confusion might be experienced in the civil administration of the army.[65]

The various establishments for the manufacture and preparation of munitions of war were also in the hands of the intendants and they had to keep a watch on all these institutions, from the army bakeries to cannon foundries, which had to be inspected regularly.[66] The repair of fortifications and all buildings used by the military was likewise entrusted to the intendants, though any important measure of this kind had to be reported carefully to the king of Spain.[67]

The last articles under the *causa de guerra* and consequently of the whole Ordinance, deal with the relation of the intendants to the superintendent-general in Mexico on the one hand, and to the viceroy and the commandant-general of the frontiers on the other;[68] of the councils of war;[69] of the rank and pay of the intendants;[70] the bonds they had to give on entering office;[71] and

[62] *Ord. de Int.*, arts. 258–261.
[63] *Ibid.*, art. 262.
[64] *Ibid.*, arts. 264-267.
[65] *Ibid.*, art. 277.
[66] *Ibid.*, arts. 292–296.
[67] *Ibid.*, art. 296.
[68] *Ibid.*, arts. 299 and 300.
[69] *Ibid.*, art. 301.
[70] *Ibid.*, arts. 302 and 303.
[71] *Ibid.*, art. 304.

the inevitable *residencia* at the end.[72] The last article of all forms a kind of second enacting clause, and declares that the Ordinance was to have the force of law and that it revoked all preceding laws, customs, dispositions, and establishments of contrary effect.[73]

The mere statement of the principal points in the Ordinance of the Intendants cannot give an adequate idea of the real intentions of those who promulgated this law and still less of its actual effects in New Spain. There is very little doubt about the nature of the evils it was designed to combat, such as the corruptions and abuses chargeable to the *corregidores* and the *alcades mayores,* and the evil of a too despotic power in the hands of the viceroy. There has been little serious divergence of opinion in regard to the principal mistakes made by the Spanish government in the administration of her colonies, but there has always been a singular lack of agreement on the part of the various writers who have dealt with the reforms which were directed against those mistakes. The new system of government by intendants was put in force by Gálvez and the most enlightened government Spain has ever had, and the introduction of this system into New Spain came only after a trial in other parts of Spanish America. Nevertheless, in spite of the powerful advocates back of the measure, it certainly failed to be an unqualified success.[74] Moreover, it did succeed in arousing a great deal of adverse criticism and it had not been in force two years before one of its most important features was given up and a return to the previous order of things permitted.

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[72] *Ord. de Int.*, art. 305. Viceroy Revilla Gigedo pointed out the unwisdom of holding *residencias* for the subdelegates, but he did not feel so strongly about holding them for the intendants. Revilla Gigedo, art. 864.

[73] *Ibid.*, art. 306.

[74] Revilla Gigedo, art. 831. Although the intendants supplied the long felt want of some kind of intermediate officials between the viceroy and the superintendent-general in the capital and the distant provincial districts, their appointment took a good deal of authority from many existing officials and so caused antagonisms right at the start. The same authority declares (articles 834 and 835), that the first intendants, with one or two exceptions, had no political experience and no specific knowledge of the country they were sent to rule over. As was to be expected, this proved a great drawback, especially at the inception of this new project.

One of the first difficulties that present themselves to a modern investigator is that of realizing just what difference the law of the intendants really brought about in the government of Mexico. At first, of course, it stripped the viceroy of a great deal of power and set up as a sort of rival the new superintendent-general. But this first and most obvious change was only temporary, and the intendant system had only been fairly established when the viceroy was himself made superintendent-general, and so had all his old powers back again.[75] The question still remains, what were the permanent effects of the new law?

The answer to this question naturally falls into two parts, the first consisting of those facts about which there is no controversy, and the second consisting of mutually contradictory statements which cannot be reconciled as yet by the historian, nor even have their relative merits decided. The admitted facts are that the new system introduced a more definite official hierarchy, with the greater simplicity it implies, and centralized and made uniform the government of the *provincias* henceforth intendancies, without saving the viceroy any responsibility.[76] The Indians were also regarded after 1786 as more independent, and the abandonment of the *repartimiento* system tended to obliterate the economic differences between the native races and the white man. Beyond these few simple statements it is impossible to go without encountering serious differences of opinion.

The leading critics of the intendent system were Viceroy Revilla Gigedo the Younger, and Villarrosl, the author of the *Enfermendades Políticas*. The former believed that the results of the Ordinance had been disappointing in that the good that

[75] Revilla Giegdo, art. 740.

[76] *Ibid.*, art. 838 *et seq.* In the year 1791 this viceroy submitted to the home government a memorandum of 532 paragraphs on the subject of the intendants. Besides those views of his stated in the text, there was one proposing that the intendants should be divided into classes, those of the lowest class being assigned to the least important and least populous intendancies, and with smaller salaries than those of the upper class, who were to be stationed in the leading cities, such as Mexico, Guadalajara, and Vera Cruz. In this way it would be possible to promote the inferior intendants who had shown ability and still keep them in the service.

might have been expected was wanting, owing to the inferior character of the men who had been appointed intendants.[77] Nor was that all. The twelve intendants were not enough numerically to allow of sufficiently small provinces, and so they were overworked.[78] Furthermore, they were all too much alike in their functions to suit the variety of the districts they were set to rule over and there was a demand, so this viceroy thought, for some distinctly military intendants for the frontier provinces.[79] Not only the intendants, but their subordinates, the *subdelegados*, received some criticism from the same man. Owing to poor pay and their dependence on the men who went on their bonds, the *subdelegados* were not independent enough either to command the respect of their superior, the viceroy, or to carry on their comparatively humble duties as subordinates of the intendants.[80] They were always compared unfavorably with the *alcaldes mayores* and the main reason seems to be that the dignity of their office, and the pay likewise, were so low as to fail to attract the right type of office-holder.[81]

In the main, Villarrocl agreed with Revilla Gigedo in the latter's arraignment of the remodelled government of New Spain, but his whole tone is more caustic and less judicial. What seemed to him the greatest condemnation of the Ordinance of 1786 was the way it met the problem of the native races. There had been enough abuses under the old régime, and the oppression of the Indian by the *corregidores* had become a commonplace. Nevertheless, under the new law there was too indiscriminate a change in the government of the Indians without a real better-

[77] Revilla Gigedo, art. 835.

[78] *Ibid.*, art. 836.

[79] *Ibid.*, art. 839.

[80] *Ibid.*, arts. 862–863.

[81] *Ibid.*, art. 849 *et seq.* One of the unfortunate points about the position of the subdelegates, besides poor pay and inferior dignity, was the lack of opportunity for promotion. To meet this difficulty it was suggested that they be divided into three classes, the first class numbering thirty, the second sixty, and the third, eighty. There was to be a marked gradation of pay and so there could be an opportunity for promotion. It could then be insisted upon that every subdelegate be *letrado*, or educated in the law.

ment of their condition. The old *repartimiento* system, which kept the native in a peonage, if not serfdom, was not without its merits. It did something toward keeping the natives busy and under the supervision of the white man. This might mean tyranny in many cases, but it did not throw the Indian on his own slender resources to compete against the Spaniard. Under the new scheme the Indian was to be given more responsibility and less direction, while the tribute was exacted just the same. Villarroel regarded the decree as unconstitutional because the usual procedure had not been observed in the drafting of the measure and its submission to the king. It was intended, he thought, to deprive the king of his direct control over the administration in America. These reasons seem so fantastic that it will not be necessary to give them further consideration, particularly as the writer himself advances no proof whatever for the assertions.

The great difficulty encountered by one who attempts to form an opinion of the Ordinance is that it was not in force long enough really to show what its effects would be. It had been in force only a very few years before the wars of the French Revolution so disturbed commerce and turned all thoughts toward military questions that there was no disposition left to embark on any thorough-going reforms. The two objections urged by Revilla Gigedo in 1794, that there were not enough intendancies and that the men appointed were inexperienced and consequently inefficient, were scarcely arguments against the system itself. The writer is inclined to believe that the idea of having intendants was a good one if there had been enough of them, so that the intendancies might have been small enough for one man to handle, and if the best men available had been appointed to the post. It was a misfortune that foreign war and other extravagances seemed to require such economies that it was impossible to appoint a sufficient number of properly paid officials for the viceroyalty; and that the particular experiment was tried when most of the appointments could be dictated by such a statesman as Manuel Godoy.

From what has been shown in the preceding pages, it may seem as if the title to this chapter has not been justified. There is every reason to believe that many persons in New Spain during the last two decades of the eighteenth century did not regard all the changes instituted by Gálvez as reforms. However, the great free-trade *reglamento* was all but universally regarded as a reform and as a notable advance toward a correct colonial policy. Many of the minor reforms of Gálvez have not been treated in this chapter partly because they appear in another place, but particularly because a certain advantage of simplicity is gained in treating alone the two most distinctive pieces of legislation which have in this chapter been referred to as the reforms of Gálvez.

CHAPTER VII

CONCLUSION

While the author of this thesis cannot attempt to say what he has done, it seems but right for him to make a clear avowal of what he has tried to do, and (this is almost as important) what he has not attempted. There has been so much written of a disappointing character about the Spaniards in America that one wants to know rather definitely the scope and intent of any new work before it can command any consideration or attention whatever. Let it be understood, therefore, at the outset, that this study does not make any pretense of affording a complete exposition of the Spanish administrative system in America, or even in Mexico, and the most that may be claimed for it is that it is a statement of the functions of the viceroy as they were to be found in the closing years of the Spanish reign.

A word of explanation is now due in regard to the needs of any such work in the light of the amount that has already been done. In the first place, the great bulk of the works on Spanish America deal with its history in the ordinary narrative form with only a casual reference here and there to the administrative system itself; and then the principal interest is always shown in the evils of that system as it worked out in regard to the native races. The second great group of books in this general field relate to geography and travel, and, while the literature is rich and varied and throws some light on the workings of Spain's colonial government, there is nothing either comprehensive or detailed on the purely administrative side. The works that have deliberately attacked the problems of the actual government of New Spain and have been based upon the sources, have con-

fined themselves too exclusively to a certain kind of documents, namely, the Laws of the Indies. This has resulted in our knowing a great deal about what the Spanish officials were supposed to do but almost nothing about how they actually did it. One of the common fallacies to which writers on Spain in America have been subject, as Rivera pointed out, has been to confound the legislation for the Indies with the execution of those same laws. He might have added that this mistake in the method was largely due to the far greater knowledge which the historians had of the former than of the latter. The statutes have been accessible for a long while, but the materials for showing how these same statutes operated have been most difficult to use and interpret.

With such works as that of Solórzano, who described the whole political organization of New Spain, and that of Antuñez, who brought together in one volume all the laws relating to the trade between the colonies and the mother country, and other books of a like nature, there is ample means for knowing what the law was on any particular subject. The trouble has always been, however, that none of these writers has been disposed to go into the details of the operation of these laws. What is really wanted at the present time for the clear understanding of how the Spanish regime actually worked is an exposition of the actual process of carrying into effect these laws. Perhaps enough has already been written to show fairly clearly what the general framework of the government of Spanish America under the colonial system was, but the attempt of this thesis has been to make a beginning of the study of Spanish colonial administration.

From the obvious necessity of some kind of limitation, this study has confined itself to only one portion of the Spanish empire, namely, the Viceroyalty of New Spain, and to a certain very definite period, the latter half of the eighteenth century. Though the writer is persuaded that a great deal of what is stated to be true for the region of Mexico was also true for Peru and other parts of America, no attempt has been made to assert

anything for the territories outside of New Spain. In spite of the great changes wrought during the reign of Charles III, the greater part of the administrative structure found standing in America in the days of Gálvez had stood in a recognizably similar form for a long time before, so that, in many ways, what has been stated to be true during the administrations of Bucareli and the younger Revilla Gigedo was also true for a much earlier period.

The foregoing chapters have made it appear, it is hoped, that the viceroy was an official endowed with a great variety of functions. It is well to bear in mind that all his duties, as governor, captain-general, vice-patron, and superintendent-general of *real hacienda*, must be viewed from at least two different standpoints. From one point of view the viceroy was the agent of the home government, sent over-sea to look after imperial interests and govern a subject population. From another standpoint he was a local official with his chief object the defense and good government of the district over which he ruled, and the prosperity and good order of its inhabitants. That these two interests were often widely separated and not infrequently in direct opposition, is, of course, patent to all. In many cases one would expect the viceroy to be troubled as to which one of these interests to support. The extreme care exercised by the crown in excluding all creoles from high office and reserving for Spanish grandees the post of viceroy itself, succeeded, so the great majority of writers think, in keeping the interests of the mother country supreme. There is reason to believe that some of the English governors in North America tried to defend the rights of the colonists, at times even against the mother country, but if such has ever been the case in Spanish America it has escaped notice.

The viceroys and captains-general were always willing enough to protect the rights of their subjects against the encroachments of other colonies but apparently never against the interests of Spain itself. For instance, the viceroys of Mexico resented very deeply the payment of subsidies, *situados*, to Guatemala and the neighboring islands of the West Indies, but they seemed to take

pride in sending as much as possible to the king. The obligations of the viceroys as local officials never seemed to weigh heavily enough to make them want to build up local industries at the expense of those in Spain, or to retain the large sums which were sent to Europe, to expend on public improvements in the dependency.

It is all but impossible to make any intelligent comparison of the merits of the colonial systems of Spain and the other colonizing powers, but a comparison of the different forms of colonial government is inevitable. In many ways Spain was the pioneer among the nations that had colonies to rule, and it may not be too much to say that Spain's system was the model upon which the other powers more or less unconsciously built. The resemblances of the various European colonial systems were, after all, far greater than their differences, and the fact that Spain was first in the field makes it more than probable that her example in colonial matters was largely followed.

In making a comparison between the colonial systems of Spain and her European rivals, it would seem natural to begin with their respective methods of control over the colonies by the home government. A difficulty is encountered, in the beginning, because of the wide difference between the strictly governmental control adhered to by Spain and that of the great chartered private companies of the Netherlands and Great Britain. To be sure, both the English and the Dutch eventually abandoned the company system in the East Indies and adopted a system of administration approximating to that of Spain, but when this was done there was no longer any Spanish system left, so that there was no possible opportunity for a comparison of the workings of this same system by the different maritime powers, for the same period. The Portuguese system was throughout very much like that of the Spaniards, but it is not easy to draw a very close parallel even between these two. The Brazilian plantations were not organized into a viceroyalty until 1720, so that Brazil, as a full-fledged dependency of the first rank, was much younger than the adjacent Spanish viceroyalties in America,[1] excepting only Buenos Ayres.

Because of the great general similarity in the government of dependencies observable in the systems of Spain and Portugal, they might with some justification be called the Iberian. In this system, the principal organ for administrative control on the part of the metropolis was the Council of the Indies. This drafted all legislation for the colonies, issued commissions to the colonial officials, and approved of all bulls and briefs which were to be published there. The English counterpart of this body was the Board of Directors of the East India Company in the earlier days, and after 1784, the Board of Control. A similar organization prevailed in the Netherlands, where the directors of the company likewise constituted the legislative body for the colonies. In the nineteenth century both the English and the Dutch reorganized their system of control by the home government and approached very closely to the Spanish model. After the Sepoy mutiny the English government openly took over the sole responsibility for the government of India and created an India Council, or rather a Secretary for India and Council, which immediately suggests the *Consejo de Indias* and the *Ministro Universal de Indias*, of Spain. Even the title of viceroy was adopted after 1858,[2] though it had no recognition in the language of the English statutes.

Although the Dutch made changes in the nineteenth century which brought their colonial system much nearer that of the older Spanish model, they did not create an Indian Council or anything to be compared at all accurately with the *Consejo de Indias*. This step has been advocated by some of the most intelligent colonial experts in the Netherlands but neither the Council nor the viceregal title has been accepted by them. The Dutch National Legislature has reserved for itself all those duties which might have been assigned to an India Council, except those which have been retained by the crown. The king acting through his minister has retained there a power somewhat analogous to that formerly exercised by the kings of Spain and the *Ministro Universal*. It

[1] Zimmermann, p. 173. Also, Hurtado, p. 31 *et seq.*

[2] Chesney, p. 132.

will be remembered that during the French occupation of Canada, as described by Parkman in his *Old Régime*, all legislation emanated from France, and that the Council, which used to sit at Quebec, was executive, not legislative in character.

Turning from the question of the control of the colonies by the home governments to the governments of the dependencies as they were found in the dependencies themselves, it is interesting to make comparisons here between the methods of Spain and the other countries. As will be remembered from chapter III, the government of the Spanish viceroyalties centered around the viceroy and an *audiencia*. For all intents and purposes, the governor-general at Batavia was a viceroy in everything but title, without being hampered by the presence of anything comparable to the Spanish *audiencia*. The council of five members which was given to the governor-general in 1854 was quite subordinate to him,[3] and never has been the check upon the executive that the *audiencia* was in New Spain. The real check upon the governor-general of the Dutch East Indies is the ease and rapidity of communication with the home government, as is also the case of the English viceroy in India. It is more than doubtful that Amsterdam and London, in these days of the telegraph and cable, dictate as much in the minutiae of administration as did Madrid and Paris in the seventeenth and eighteenth centuries,[4] but it may explain the disposition of the Dutch to leave their governor-general in Java without the fetters of a powerful council. With the viceroy of New Spain, although provided with a corps of clerks, forming the various secretariats, there was not the same division of his civil functions into certain well-defined departments, such as is now found in British India and Java. On its administrative side the *audiencia* of Mexico had nothing like the importance of the councils at Batavia and Calcutta, and in that regard was far less efficient. The Portuguese viceroys of Brazil were no better supplied with administrative

[3] Day, pp. 415 and 416.

[4] Parkman, pp. 73–82.

assistants than the viceroys of Peru and Mexico, and their control over the provinces under their care was even less effective and immediate.[5] The nine subdivisions of Brazil were fairly independent of the viceroy and of each other, so that the centralization of the government in Portuguese America was less marked than in the neighboring Spanish territories.

The provincial government of Spanish America in the eighteenth century was far more highly developed than that of the English and Dutch colonies in the Indies. The only comparison that can be made, therefore, is with the English and Dutch dependencies in the nineteenth century, or at the present time.[6] The twelve intendancies of New Spain would correspond roughly to the twenty-two *residences* in Java, or the fifteen major territorial units of British India. In the degree of centralization of all sorts of administrative functions the intendant stood highest, though the Dutch Resident is supposed to do, or oversee the doing of, nearly everything that a ruler can do. The Spanish subdelegates, the direct subordinates of the intendants in New Spain, suggest a comparison with the district officers of British India and the assistant residents of Java. They possessed the same sort of powers that the intendants themselves had, only on a humbler scale and in a smaller district. Thus the individual efficiency of these officials, as of the assistant residents and district officers, determined very largely the character of the whole government.[7]

One rather striking point in common with the Spanish, Dutch, and English systems was the very general employment, in humble capacities to be sure, of native officials. Under the subdelegates in the Spanish intendancies was a large class of native officials who collected the taxes and came into immediate contact with the mass of the native population. These *subalternos* in the Indian villages were elected, under the direction of the subdelegates or *alcaldes*, by the natives themselves, and are to be compared

[5] Zimmermann, pp. 173–174.

[6] Day, chap. 12, *passim*.

[7] Day, p. 420.

with the regents in the Javanese provinces. The important difference was, however, that the regents in Java were chiefs of great influence among the native population while the *subalternos* were the humblest kind of office-holders. Moreover, the Dutch endeavored to keep up an hereditary succession among their native rulers while the Spanish method was to depend on annual elections. Perhaps it would be more correct to liken the *subalternos* to the district heads and their subordinates (who form the lowest group in the administrative hierarchy in Java) rather than to the dignified regents, who are appointed by the governor-general from the native nobility. As the French in Canada had no civilized native population to deal with, their experience with the problem of native office-holders was simply nil, and as the new empire which they have in recent times acquired in Indo-China is so far removed in space and time from the conditions in New Spain under the Spaniards, there would be no advantage in trying to institute comparisons between the two.

It would be possible to extend this comparison of the Spanish rule with those of the other powers into a number of departments, showing the differences in levying taxes, organizing the military, building public works, maintaining the church, providing public schools, and so on, but I refer to limit myself to a mere reference to a couple of points which seem never to be mentioned in the books. The first is the notable absence in all the early dependencies of Spain, France, Portugal, and the Netherlands of any provision for provincial legislation, and the very early appearance of the same in the English colonies. As was pointed out in chapter II, the supervision of the viceroy by the home government was extreme, and this implied a monopoly of the legislation, which contrasted markedly with the liberty in local affairs enjoyed by the English colonies in North America.

On the other hand, apparently in conflict with the above, there was the provision in Spanish America for local councils, which were absent in French Canada and are still unknown in Java. Every town in New Spain had its *ayuntamiento*, or board of aldermen. The membership was, it is true, supplied mainly by

sale of the positions, and the *regidores* were not a type of official to be praised highly, but there was the germ of local self-government in the institution and as such is deserving of attention.

In this concluding chapter it does not seem necessary to attempt a resumé of the subject-matter of this entire thesis, or even to pass a judgment on the Spanish colonial system, as a whole or in part. It is realized by the writer that, important as the viceroy and his activities were, he was not the entire government even of the viceroyalty, and of course was a still smaller part of the great imperial administrative organization which had its center at Madrid. It is nevertheless put forth with some confidence that there does not exist as yet anything like an adequate study of the viceregal office, and that until such a study is available it will not be possible to understand the true nature of the Spanish rule in America. With this need in mind, the preceeding pages have been written and are submitted as a very modest contribution to the beginning of at least one part of that study.

BIBLIOGRAPHICAL NOTE

The authorities upon which this thesis is based may be divided roughly into two general classes, primary and secondary; but the secondary material is used rather for illustration of point of view than as a basis for any judgment or conclusion found in this study.[1] The primary material naturally varies greatly, not only as to its general value, but also for the particular purposes for which it may be used. It has seemed not only convenient but logical to divide the primary materials further into two groups, corresponding to their derivation, official and unofficial. Of the two, the official sources are of much the greater importance and may be described as follows

Fundamental in their nature, and absolutely essential to any understanding of the workings of the Spanish administrative system, are the Laws of the Indies, the code or body of statute laws for the whole Spanish colonial empire. These laws were more than the mass of legislation which Spain provided for her colonies, for they partook of the nature of a constitution as well, and so were in effect the basis of all law, statute and administrative, for Spanish America. But strictly speak-

[1] Practically all the sources used for this thesis are in the Bancroft Collection of the University of California. Much of the primary material is in the form of transcripts of documents now in the national archives of Mexico and the remainder has been printed but is now almost inaccessible.

ing, the *Leyes de las Indias* were not the only laws framed by the metropolis for the dependencies. The code proper was supplemented by a vast number of royal orders and decrees, *cédulas y órdenes reales* and *decretas reales*, by which it was substantially modified, amended, and enlarged. Of similar import, though of a lower degree of validity, were the decrees and rulings of the viceroys themselves, which under the name of *bandos* constantly appear among the source of materials of this thesis. Comparable to our common law were the decisions of the highest provincial courts, the *autos acordados* of the *audencias*, which were therefore an addition to the amount of legistic material that had to be examined, but which had proved relatively unimportant for this particular subject. Similar to the above, in that they are practically of the same legal character, are the numerous charters which were issued to various corporations by the kings of Spain. The most important of these charters related, on the one hand, to the great commercial companies such as the Philippine Company and the Caracas Company, and, on the other, to the various *consulados* which were such useful pieces of administrative machinery for the regulation and encouragement of commerce. Their connection with the functions of the viceroys was rather remote, but occasionally threw light upon the relations of the viceregal governments to the whole subject of commerce. Miscellaneous charters, like that of the University of Mexico or that of the Academy of Fine Arts, also gave indications of the activity and influence of the church in education, and indirectly of the viceroy's powers as vice-patron.

The remainder of the official documents is made up of the official source materials which are not laws, constitutions, nor charters, but which are indispensable for the correct understanding of the actual operation of the same. Foremost among these are the various instructions which were written by the viceroys, at the close of their own administrations, as a report on what they had accomplished during their separate terms of office, and as a guide for their successors. These *instrucciones de vireyes* have been recognized as being of sufficient importance to deserve printing, but with one or two exceptions they have been little used by the secondary historians. It would be difficult to imagine a more useful kind of material for the study of a viceroy's administration, and the particular instruction written by Revilla Gigedo in 1794 for his successor Branciforte, has been used constantly in the preparation of this thesis.

It is impossible to over-estimate the value of these reports, for while they do not tell the whole story or perhaps any part of it so that it can be taken without qualification, they do tell clearly enough what the viceroys conceived to be their duties, how they attempted to fulfil them, and to what extent they believed they failed or succeeded. It must occur to anyone that these instructions or reports are open to the suspicion of bias on account of the very natural desire of the writer to make as good a showing as possible for his administration, but as these reports were for the guidance of an immediate successor, who would be in posi-

tion to judge of their accuracy, and who would not, therefore, be imposed upon very long, there existed a very serious check on the tendency of an outgoing official to warp the truth too decidedly. In fact, it may be asserted of most of these *instrucciones* that they were written in a humble tone, rather apologetic than boastful, and they stand the test of credibility when they are checked by other contemporary documents.

The remaining official contemporary documents which have been used, partly to check the viceregal reports, and partly to furnish independent evidence on matters ignored by or but hinted at in them, consist of three sorts—proceedings and findings of the *residencias*, or investigations directed against the viceroys at the close of their administrations; reports, or *informes*, of the visitor-general; and the correspondence of various officials, notably that of the viceroys with their subordinates. The full text of the *residencias* of the elder Revilla Gigedo is in the Bancroft Library of the University of California, and has been studied to show the nature of that court of inquiry and its relations to the larger question of the control over the viceroy exercised by the home government. The *informes* of the visitor-general were particularly useful for the aid they gave in understanding the workings of the *real hacienda*, and the duties of the viceroy as superintendent-general of that department of the government. Of all the official correspondence, the fullest and most enlightening is that of the viceroys and the governors of the provinces—that of Viceroy Bucareli and Governor Neve of California being used the most.

Concerning the unofficial contemporary materials very little need be said, because of the distinctly minor importance that it has had in the preparation of this thesis. Facts of historical value may, of course, be found in such periodicals as the *Gazeta de México* and the *Correo de Indias*, but the perusal of these papers proved to be of little profit to this study of the viceregal administration. Of incomparably greater worth were the four volumes in manuscript of Villarroel, the vigorous critic of Mexico's "*Enfermedades Políticas*," as his work is called. He sweeps over the whole field of the state's activities—morals, religion, police and crime, finance, treatment of the natives, the administrative changes during the last third of the century—and so offers a striking account of the state of the country parallel to the reports of the viceroys.

Of the rich and fascinating travel literature which has been left by Europeans as a record of their impressions of Spanish America, Mexico has had its full share, but with the exception of Humboldt, who must be regarded after all as a secondary writer, these foreign authors and observers have not been called upon to give testimony regarding the government of New Spain. They have always been interested in the picturesque aspects of Spanish American colonial life, the mistreatment of the Indians, the raids of the buccaneers, the founding of missions, and the like, rather than the prosaic question of government and administration. Among the great number of secondary authorities only a few of

the great names, and those who have been of particular service, can be mentioned here. Foremost in actual value and reputation stands Alexander von Humboldt. It must be remembered, however, that Humboldt's interests were not primarily in matters governmental, still less administrative, so that I have been unable to make as much use of the *Political Essay on New Spain* as the fame of the author might seem to justify. Dealing with contemporaneous conditions and events, and with the most unusual opportunities for observing what he wished to write about, the four-volume essay of Humboldt partakes of the nature of primary material, and contains as much material for history as it does history itself.

For somewhat different but quite as valid reasons, the modern investigator must acknowledge his indebtedness to Hubert Howe Bancroft. The general survey which this historian has made of the history and institutions of Spanish North America is in all its main outlines substantially correct. While it is true that in his thirty-nine volumes Mr. Bancroft devotes only eight or ten pages specifically to the administrative functions of the viceroy of New Spain, there is scattered through his works a vast amount of miscellaneous information about the system by which Spain governed her colonies. But it is not for information on matters of historical fact, chiefly, that I have been led to consult Mr. Bancroft's works, but rather for information relating to the primary sources. As a bibliographical guide these volumes are indispensable to any one using the Bancroft Collection, and as such they have been a constant aid in the prosecution of this work. Many even of the most important documents cited in his *History of Mexico* have not been utilized by him to the uttermost, in some cases hardly used at all, and this fact has made it possible to write an intensive study on the viceroy of Mexico, in what is recognized as Mr. Bancroft's own field.

The briefest possible notice of the secondary authorities cannot be concluded without a reference to the recent invaluable contribution to the history of Spanish institutions in Europe and America by G. Desdevises du Dézert, entitled *L'Espagne de L'Ancien Régime*. These three volumes touch only incidentally on American conditions, but contain the clearest statement available of the workings of the Spanish royal government. In the United States, within very recent years, have been published two separate one-volume studies introductory to the history of Spanish America—*Spain in America* by Professor Bourne, of Yale, and *The Establishment of Spanish Rule in America* by Professor Moses, of the University of California, both of which are useful outlines, the latter particularly on the governmental side.

The list of authorities given below contains only titles of books and documents consulted, and is not meant for a complete bibliography of the subject. Those authorities that have been consulted frequently, and are therefore of considerable importance to this thesis, have been commented upon briefly to indicate the nature of the aid they furnished.

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refer to the articles into which this document is divided instead of to the pages. An exception is the instruction of Mancera, where the references are to the numbers of the pages, according to the *imprenta imperial.*

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THE BEGINNINGS OF SPANISH SETTLEMENT IN THE EL PASO DISTRICT[1]

ANNE E. HUGHES

I. INTRODUCTORY: SPANISH EXPANSION INTO NEW MEXICO AND NUEVA VIZCAYA[2]

A general view of the colonizing movements of New Spain on her northern frontier, particularly those affecting the development of the provinces of New Mexico and Nueva Vizcaya, is necessary for a clear comprehension and a true valuation of the beginnings of Spanish settlement in the El Paso district. The occupation of the latter region, in fact, was a natural sequence of the growth and development of those two provinces.

1. *Advance up the West Coast of Mexico.*—During the sixteenth century two lines of approach to New Mexico from the south were opened. The first of these was the route up the west coast, through the present states of Sinaloa and Sonora, up the Sonora River and down the San Pedro River to the Gila, and thence across Arizona to the Pueblo region of New Mexico. Offering the path of least resistance, this route was followed by the first adventurous captains and zealous priests who sought to penetrate the interior. The occupation of Culiacán by Guzmán, the exploration of Sonora by Fray Juan de Asunción, and the

[1] This paper was written under the direction of Professor Herbert E. Bolton.

[2] This introduction is based chiefly on Bancroft's *North Mexican States and Texas;* Bancroft's *Arizona and New Mexico;* Arlegui's *Crónica de la Provincia de N. S. P. S. Francisco de Zacatecas;* Charles W. Hackett's "The Revolt of the Pueblo Indians of New Mexico in 1680" in the *Quarterly* of the Texas State Historical Association, vol. 15, no. 2, vol. 16, nos. 2 and 3; and Onate's "Diario", in *Doc. Inéditos de Indias,* vol. 16, pp. 240-244.

the southern half of Nueva Vizcaya was occupied, and the slender stream of settlement was ready to push its way beyond San Bartolomé, the last outpost, into the northern half of Nueva Vizcaya.

Thus Spanish settlement had reached the head waters of the Conchos River, a southern tributary of the Río del Norte, or Río Grande. Along these two streams a number of expeditions were soon to find their way into the heart of New Mexico and open the path for actual settlement. In 1581 Rodríguez, accompanied by two other priests and a military escort under Chamuscado, entered New Mexico by this route and planted the first but short-lived mission, in the neighborhood of Albuquerque. In 1582, with the aim of rescuing Rodríguez's expedition, Espejo set forth with a small military escort and a force of Indian allies, entered the Pueblo region, explored far to the east and the west, and returned to Mexico over a new route down the Pecos River and across to the mouth of the Conchos River.

3. *The Colonization of New Mexico.*—Near the close of the century, the Spanish government began to consider plans for colonizing New Mexico and exploiting the Pueblo Indians. Accordingly, at the request of the viceroy, Losa submitted a plan which called for three hundred settlers and the granting of powers of *encomenderos*. Upon receiving Losa's recommendation, the king in 1583 definitely adopted a policy of colonization. Within the next decade there followed six or more unsuccessful efforts to settle the new province, among which were the unauthorized and ill-fated expeditions of Sosa and of Bonilla and Humaña.

The reward of success, however, was destined for Don Juan de Oñate, who secured a contract for the settlement of New Mexico in 1595, and, notwithstanding innumerable obstacles placed in his way by jealous rivals, set out upon his mission in 1597, accompanied by four hundred men, one hundred and thirty of whom took their families with them. Leaving the old Conchos River trail to his right, Oñate selected a new and more direct route due north from Santa Bárbara. On April 20, 1598, he reached the Río del Norte in latitude 31° 30′; and on April

30, "the day of the Ascension of the Lord," he took formal possession of New Mexico, at a place three leagues above the point where he first touched the river. Continuing up stream five and one-half leagues, on May 4 he reached "El Passo del Rio," the ford which became the gateway into New Mexico, and is the center of the colonizing movement described in this paper. Proceeding northward to the Pueblo region, Oñate conquered the native tribes and planted a mission and a settlement at San Juan de los Caballeros, on the Chama River. San Juan being abandoned by the settlers while Oñate was on one of his numerous exploring expeditions to the east and the west, he re-established his colony by 1609 at Santa Fé, the first permanent settlement within the limits of New Mexico. Thus the work of Oñate fittingly closed the century of exploration and attempted settlement, and opened the new century of colonization and expansion by laying the cornerstone of Spanish occupation in New Mexico.

4. *The Expansion of New Mexico.*—The first quarter of the seventeenth century was occupied largely in Christianizing the Pueblo Indians and planting Spanish settlements among them; but at the same time it initiated the expansion policy which was to give direction to the zeal of priest and military leader during the remainder of the century. Though part of this expansive energy was expended in a northeastward search for Gran Quivira, whose mystic hoards of wealth had lured the soldier of fortune since the days of Coronado, by far the greater part of it was directed toward the region now embraced in western Texas, partly for exploration and partly for Christianizing the Indians and opening up trade with them. The most noteworthy expeditions of the period were three missionary journeys of Father Juan de Salas and other religious, between 1611 and 1632, to the Jumano country, variously estimated at from one hundred and twelve to two hundred leagues to the southeast, on the Río de las Nueces, or Colorado River, of Texas; the military expedition of Alonso Vaca in search of Quivira, about 1634; the military expedition of Captains Martín and Castillo to the Jumano country in 1650; and the exploring party of Guadalajara to the Jumano country

in 1654. These movements eastward culminated in the expedition of Mendoza to the Jumano country in 1683–4, which took place from El Paso after the abandonment of New Mexico in 1680.

5. *The Expansion of Northern Nueva Vizcaya.*—During the first quarter of the seventeenth century the infant colony of New Mexico was a detached group of settlements, separated from Nueva Vizcaya by an uninhabited area five or six hundred miles in breadth; and before it could become safe and prosperous that gap must be filled. Therefore, while New Mexico was feeling her way into the plains of western Texas, missions and settlements were slowly extending up the plateau of Nueva Vizcaya by way of the valley of the Conchos and the foothills of the Sierra Madre, and slowly filling in the menacing gap. The Franciscans, as before, followed the easterly half of the plateau and worked among the Conchos Indians in the Conchos Valley; and the Jesuits kept to the foothills, pursuing their labors among the Tarahumares. The founding of the pueblo of San Francisco de Conchos in 1604; a second pueblo of Conchos, twenty leagues from Santa Bárbara, in 1609; and San Pedro, Atotonilco, Mescomahua, and Mapimí, before 1645, marked the progress of the Franciscans. A short-lived mission in the San Pablo Valley in 1611; San Miguel de las Bocas in Espíritu Santo Valley, in 1630; the pueblo of San Gabriel; the Spanish settlement and garrison at Parral in 1631–32; San Felipe and San Gerónimo Huexotitlan, in 1639; and six other pueblos, including San Francisco Borja and Satevó on a tributary of the Conchos, before 1648, marked the advance of the Jesuits.

The peaceful progress of the work of the Franciscan and Jesuit fathers was suddenly interrupted by two bitter Indian wars. The first of these outbreaks occurred in 1644, among the Conchos, Tobosos, and Salineros, who did their work so thoroughly that soon nothing was left to the priests but the mining camp of Indé, the Jesuit mission at San Miguel, the Franciscan mission at Mapimí, and the garrison settlement at Parral, with a few outlying mines and haciendas. Scarcely was this revolt

quieted when another occurred among the Tarahumares, in 1648, which continued four years, and during which nearly all of the Jesuit and many of the Franciscan missions were destroyed.

As soon as peace was restored, both brotherhoods reoccupied their abandoned establishments and prosecuted their labors with increased energy. The Franciscans formed a branch convent at Parral in 1656, and before 1667 added sixteen new missions and conversions and selected the sites for eight more. The Jesuits were no less energetic. In 1668, notwithstanding Indian wars, pestilence and famine, they had under their jurisdiction five *partidos*, each with a priest in charge, and three new missions at Natividad, San Mateo, and San Ignacio; and by 1673 they had extended their field as far to the northwest as Mission San Bernabé, with its three villages of Cuitzóchic, Cusihuriáchic, and Coráchic. The jurisdictions of the two orders were separated by a line roughly drawn from Durango over the mountains to Tutuaca, just above the bend of the Yaqui River.

Of more immediate importance to the history of the El Paso district is the work of the Franciscans among the Julimes, Janos, Sumas, and other tribes who occupied the territory north of the Conchos and Tarahumares. In 1663 they established a mission at San Antonio de Casas Grandes, and about the same time two others at Torreón and Carretas. According to Arlegui, Santa María de la Natividad, founded in 1660; San Pedro Namiquipa, in 1663; Santiago Babonyaba, in 1665; Santa Ysabel Torcimares, in 1668; and San Andrés, in 1684, were among the new conversions of this region. It is certain from the documents used in the preparation of this paper that before 1684 missions and Indian pueblos were already established along the Río del Sacramento, for, on his return from the Jumano country, Mendoza mentioned passing the pueblo of San Antonio de Julimes and four or five opulent haciendas; and Father López, in summarizing the damage done during the Manso revolt, indicates that the entire region between El Río del Sacramento, Casas Grandes, and El Paso was thinly sprinkled over with missions, estancias, and haciendas.

6. *The Pueblo Revolt of 1680.*—To meet this northward moving column from Nueva Vizcaya, there now occurred a counter movement from New Mexico. In 1680 the Spaniards of New Mexico, who numbered about two thousand eight hundred persons, were enjoying a fair degree of prosperity, but the Indians were restless and dissatisfied under Spanish rule. Under the leadership of Popé, the natives organized a widespread revolt which included the Indians of the entire province, and plotted to rise on August 11 and massacre the Spaniards, sending around a knotted cord to indicate the time for the outbreak. The conspiracy becoming known to the Spaniards, the Indians rose on the tenth, and laid siege to Santa Fé on the fifteenth. When the settlers who had taken refuge in Santa Fé were finally able to raise the siege on August 20, they withdrew southward toward Isleta, where the settlers of the southern region had gathered for protection. Finding Isleta abandoned, they continued their retreat until they overtook the fleeing colonists from Isleta at Fray Cristóbal; both divisions continued southward to La Salineta, where in a council of war Governor Otermín and his advisers resolved to withdraw to El Paso and make that place a base of operations for the reconquest of the revolted province. This resolution they carried into effect. The settlement at El Paso now became the center of a new district—a separate province, so to speak—which from that day to this has played a distinct part in the development of the Southwest.

Bibliographical Note

The history of the beginnings of Spanish settlement in the El Paso district has never before been written. Indeed, the primary materials for the history have not been available until discovered recently by Professor Herbert E. Bolton in the archives of Mexico. These newly found materials, which constitute the chief sources of information, are four manuscript *expedientes*, or groups of related documents, covering the years 1680–1685. Among the documents, which record the administrative relations between the central and the provincial governments, are orders and proclamations of the governors of New Mexico; petitions and certifications of the cabildo of Santa Fe; representations and decisions of the religious of New Mexico; criminal *processos;* declarations of witnesses; opinions of the *fiscales;* proceedings of the *junta general;* decrees

of the viceroys; and letters written by the governors, religious, military captains, and other persons of official rank or in private life. The four *expedientes* are called respectively: (1) "Auttos tocantes, ál Alsamiento de Los Yndios de la Provincia de la Nueba Mexico";[3] (2) "Autos Pertenecientes a el alcamiento de los Yndios de la Proua del nuebo Mexco y la entrada, y subcesos de ella que se hizo para su recuperación";[4] (3) "Autos sobre los Socorros q pide el Govr. de la na. Mexico, y otras nottas tocantes a la Sublevazion de los Yndios Barbaros de aquella provia";[5] (4) a collection without a title, but referred to as "Expendiente no. 2, fojas 47."

These four collections were supplemented by a compilation of documents—also from the Mexican archives—selected mainly from *Autos sobre los Socorros*, but containing some documents not found in that collection; the compilation, which was made by Father Talamantes, is called "Viage que a solicitud de los Naturales de la Provincia de Texas, y otras Naciones circumvecinos, y de orden del Governador del Nuevo-Mexico D. Domingo Gironza Petris de Cruzate hizo el Mastre de Campo Juan Domínguez de Mendoza, en fines del año de 1683 y principios de 1684."[6] The foregoing documents are contained in Dr. Bolton's collection.

The above-described materials have been supplemented by a few single documents and a number of secondary sources, mainly old chronicles, belonging to the Bancroft Collection of the University of California; some notes from the old church records at Juárez, made by Dr. Bolton and Mr J. W. Curd of El Paso; copies of several documents in the Bandelier Collection at the Peabody Museum of Harvard University, furnished by courtesy of the curator, Frederick W. Putnam; and copies of several documents from the Santa Fé archives now in the Library of Congress. The titles of these documents appear in the footnotes.

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[3] It is further described as "Num 27 . de los Papeles del Supor . Govno . Año de 1681 . Segundo quaderno de Numo .6 . Pa . remitir á leon . Srio . Don Pedro Velasques de la Cadena . Expediente no. 6 . N. fojas 123.

[4] It is further described as "Varios Hechos de los Indios de Nuevo Mejico. Numo 20 Año de 1682 Expediente No. 2 y fojas 120. Srio. D. Pedro Velasquez de la Cadena."

[5] It is further described as "Num .28 de los Papeles del Supor Govno. 367. Año de 1685 Numo . 4 Y la mudanza del Puesto del paso del Rio del norte al de la Ysleta á Ynstanzias y pedimtos. de los Vezos y Pc. Prcom Fr. Nicolas Lopez y la Gente y demas Socorros q pide pa este efecto Expediente no 4 No. fojas 167 Srio. D P. de la Cadena."

[6] It is further described as "Copiado Del Original que existe en el oficio mas antiguo del Virreynato de Nueva-España, en los Autos sobre la sublevacion del Nuevo-Mexico. Quaderno. 1º."

II. EARLY MISSIONS AND SETTLERS IN THE EL PASO DISTRICT, 1659–1680

1. *Attempted Missionary Work before 1659.*—Though the advance of settlement toward the El Paso district, as sketched above, was northward from Durango, the actual establishment of missions and the beginnings of settlement in that region were the result of a counter movement southward from the Spanish colony in the interior of New Mexico. The two waves of colonizing activity were destined to clash along the banks of the Río del Norte, and to create jealous rivalries between the provinces of New Mexico and Nueva Vizcaya.

Although the conversion of the Mansos,[1] the wild, non-agricultural tribe of Indians dwelling at El Paso, was delayed until the middle of the seventeenth century, missionary work among those Indians had probably been in progress in a desultory way since the first religious entered New Mexico by way of El Paso. According to Benavides, the Mansos first displayed interest in resident missionaries the last time he passed their ranchería, about the year 1630, at which time he preached to them, and placed in their ranchería a cross, telling them its meaning. The natives seemed much interested, repaired to the cross to pray and to be healed, and asked the friar for religious to teach and baptize them. Recognizing the advantages to be derived from a mission establishment at that point—by way of making safe the highway to New Mexico, converting and reducing to settlement the neighboring Indians, and developing rich mining camps and splendid ranch sites along the highway—Benavides suggested that four religious with a guard of fifteen or twenty soldiers would be

[1] For the origin of the name of this tribe and its characteristics, see Oñate, *Diario*, in Pacheco and Cárdenas, *Col. Doc.* XVI, p. 243; Benavides, Memorial, in *Land of Sunshine*, Vol. XIII, p. 281; and Vetancurt, *Menologio Franciscano de los Varones más Señalados* (Mex. 1871), pp. 24, 429.

sufficient for an establishment at El Paso. It was perhaps at this suggestion that missionaries were eventually sent there from New Mexico.[1a]

The earliest account of such missionary work available to the present writer is given by Medina, in his life of Fray Antonio de Arteaga, provincial of the Holy Province of the Barefoot Friars of San Diego and, at one time, a missionary to the Pueblo Indians. Encouraged by his success in converting the Pueblo Indians, Arteaga undertook to bring the Mansos into the fold of the church, and with so much success that the neighboring Indians, encouraged by the example of the Mansos, also sought instruction and were baptized by the missionary.[2] Though the date of Arteaga's visit to the Mansos is not given, it was subsequent to 1629, the time of the arrival of Fray Estévan de Perea, the new custodian of the conversion of San Pablo, in whose company Arteaga entered New Mexico.

During the administration of Governor Bernardo López de Mendizábal, who held office in New Mexico not earlier than 1656 nor later than 1661,[3] another effort was made to catechise the Mansos. This time Fray García de San Francisco y Zúñiga, in company with fathers Juan Cabal and Francisco Pérez, all of New Mexico, went to El Paso to instruct the Mansos, taking with him alms which he had collected from the citizens of New Mexico. According to Vetancurt, he founded the pueblo of the Mansos and left Pérez and Cabal to catechise the Indians. Seeing the repugnance of the religious to remaining—for the Mansos seem to have been intractable—García told the priests that there was no occasion for becoming weary, as the time for the Indians' conversion had not yet arrived. After García's departure the natives set upon their teachers and tried to kill them. News of the disturbance reaching Governor Mendizábal, he sent from Santa Fé a rescue party under Maestre de Campo Thome Domín-

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[1a] Benavides, *op. cit.*, p. 281-2.

[2] Medina, *Chrónica de la Santa Provincia de San Diego de Mexico* (1682), p. 169.

[3] Bancroft, *Arizona and New Mexico*, p. 165.

guez de Mendoza, who pacified the tumult and took the missionaries back to New Mexico.[4]

2. *The Establishment of Mission Nuestra Señora de Guadalupe, 1659.*—Though the efforts of Cabal and Pérez were futile, the conversion of the Mansos soon followed, in 1659. In this year Father García de San Francisco y Zúñiga again visited El Paso, and, with the assistance of Father Francisco de Salazar,[5] laid the foundation of the mission of Nuestra Señora de Guadalupe.

Since the work of García may be regarded as the cornerstone of the El Paso establishments, a short sketch of his life will not be amiss at this point. He came to New Mexico in 1629 in company with Fray Antonio de Arteaga, and in the train of Fray Estévan de Perea, the newly elected custodian of the conversion of San Pablo. At that time García was a lay brother, but his superiors, feeling that his influence for good would be increased by his taking orders, commanded him under the oath of obedience to receive them. Though he had formerly, through humility, refused to enter the holy state, he now became a priest. In 1630 he was given charge of the conversion of Senecú by Father Arteaga, who had founded it. Father García adorned the church with an organ and rich ornaments, and cultivated grapes, of which he made wine for himself and for the other monasteries. He became the founder of the mission of Nuestra Señora del Socorro, whence he went to El Paso to found Nuestra Señora de Guadalupe.[6]

The account of the founding of Nuestra Señora de Guadalupe, comes from Father García's own pen, in the form of an entry in the administration books of the mission. A certified copy made in 1663 still exists in the archives of the Church of Guadalupe at Juárez. The importance of this document justifies its reproduction here in translation.

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[4] Vetancurt, *Menologio*, pp. 24–25; Petition of the citizens of New Mexico to the viceroy, August 26, 1685, *Autos sobre los Socorros*, folio 126.

[5] Petition of the citizens of New Mexico to the viceroy, August 26, 1685, *Autos sobre los Socorros*, folio 126.

[6] Vetancurt, *Menologio*, p. 24; Vetancurt, *Chrónica de la Provincia del Santo Evangelio de Mexico* (1697), p. 98; Medina, *Chrónica* (Mexico, 1682), p. 168.

In the name of the most holy and indivisible Trinity, Father, Son, and Holy Ghost, three distinct persons and one only true God; for His greater glory, honor, and reverence; for the confusion of the infernal enemy; for the service of the most holy Virgin Mary, Our Lady and immaculate Patron; and for the greater exaltation of our Holy Catholic faith; on the eighth day of the month of December, of the year 1659, I, Fray Jarcía de San Francisco of the order of the minor friars of the regular observance of our Seraphic Father San Francisco, preacher, actual definitor of the holy custody of the conversion of San Pablo of New Mexico, minister and guardian of the convent of San Antonio del Pueblo de Senecú: whereas the captains and old men of the heathendom of the Mansos and Zumanas Indians went to the said custody to supplicate me to descend to preach them the Holy Evangel of Our Lord Jesus Christ and succeed in quieting them and baptizing them; and our Reverend Father Fray Juan Gonsales, custodian of said custody, having given a patent to Señor Don Juan, Manso governor and captain-general for his majesty; and having received the patents from my superior, in which he orders me to descend for the instruction and conversion of this heathendom, and license from the said Señor Don Juan, Manso governor; and having descended, with no little labor, to El Passo del Rio del Norte, on the border of New Spain, and in the middle of the custody and province of New Mexico; and having congregated most of the rancherias of the Manso heathen on said site; and having offered them the evangelical word, and they having accepted it for their catechism, and permitted me to build a little church of branches and mud and a monastery thatched with straw—said heathen aiding and receiving me for their preacher and minister; by these acts, as aforesaid, and by virtue of the patent of apostolic commissary, which I have from my superiors, through the privileges which the apostolic chair has displayed for new conversions to our sacred religion, raising this holy cross, which I planted, and building this church, in which already I have celebrated the sacred mystery of our redemption, I took possession of this conversion of the Mansos and Sumanas, and of all the other surrounding heathen which might be assembled or might be called to our or to whatever evangelical preacher, in name of all our sacred religion, and immediately of the custody of the conversion of San Pablo of New Mexico; and I named and dedicated this holy church and conversion to the most holy Virgin of Guadalupe with the above name of El Passo, placing (as I do place) her holy image, for the which and to redeem it from the demon's tyrannical possession, I call to witness heaven, the earth, and all the holy angels who are present as guard, and especially all the heathen who are of this conversion, and Bernardino Gualtoye, Antonio Guilixigue, Antonio Elogua, Juan Azoloye, Francisco Tzitza, and Felipe Quele, Christians of the Pueblo of Senecú, companions and followers who descended with me.

And as soon as I named this conversion, by the authority of my office, as commissary and head of all those of El Rio del Norte above and surrounding immediately subject to the holy custody of the conversion of San Pablo, and in order that in future times thus it may be confirmed of this

possession, dedication, and naming, I write this in order that it may be preserved in the archive of said holy custody. Dated at El Rio del Norte, at the pass from New Spain to New Mexico, on the 8th day of December, 1659.

"Fray García de San Francisco, Apostolic Commissary of the Mansos and Zumanas—I, Fray Antonio Tabares, notary named by Father Fray García de San Francisco, Apostolic Commissary of these conversions, testify to having transcribed, as above, the said writing, which is preserved in the archive of the custody. Dated April 9, 1663; and as true I sign it.

FRAY ANTONIO TABARES (rubric) Apostolic Notary named.[7]

Vetancurt, who delights in picturesque and edifying details, gives the following interesting account of the building of the church. There was no timber at hand for the construction of the edifice. García making this lack of material the subject of prayer, some Indians came and conducted him a league and a half away to a grove of beautiful pines, from which timber was cut and carried to the Manso pueblo without much labor. When García was building the convent, Fray Blas de Herrera remarked to him that he was making a very large number of cells. García, says Vetancurt, then prophesied the revolt of 1680 and the retirement of the Spaniards to El Paso, saying that the cells would be too few for the number who must dwell in the convent.[8]

The temporary mission buildings erected by García were soon replaced by more substantial structures. In 1662 García records the dedication of the cornerstone of the church as follows:

On April 2, 1662, I, Fray García de San Francisco, bless the first foundation stone and foundations of the church of this conversion and congregation of the Mansos of Nuestra Señora de Guadalupe del Passo, patron and titular of said church. In order that it may be confirmed in the future this writing was placed here, and I sign it as above.

FR. GARCIA DE SAN FRANCISCO.[9]

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[7] *Auto de Fundación de la Misión de Nuestra Señora de Guadalupe de los Mansos del Paso del Norte*, in *Libro Primero de Casamientos, El Paso del Norte, fojas* 74-75, A.D. 1659. Bandelier Collection.

[8] Vetancurt, *Menologio*, pp. 24-25.

[9] Certificate of the dedication of the cornerstone of the church of Nuestra Señora de Guadalupe del Paso del Norte, in *Libro Primero de Casamientos*, folio 76, "2 de Abril del año de 1662." Bandelier Collection.

The church, which was on the right bank of the Río del Norte[10] and half a league from that stream, was apparently completed in 1668. Vetancurt, writing about 1691, gives an account of the dedication services held in January of 1668. The account, which contains an interesting bit of information respecting the site of the mission, is subjoined:

> On the slope of a rocky wood on the bank of the Rio del Norte at the pass, in the year 1659, the conversion of the Lansos, by another name Mansos, was made by the Reverend Father Fray García de San Francisco; and he built a monastery, where are housed thirty religious, with a very capacious church dedicated to Nuestra Señora de Guadalupe Mexicana. In 1668, on January 15, the second Sunday after Epiphany, it was dedicated with much solemnity by the Reverend Father Fray Juan Talaban,[11] the custodian assisting and his secretary preaching. That day, by three religious, were baptized one hundred persons; at one door the men, and at another the women; and in the middle of the church they married them. It has more than three thousand parishioners, and today with the governor, soldiers, and other natives of other nations who were spared in the rebellion, they number more than two thousand.[12]

Father García was supported in his labors by the governors of New Mexico and by Fray Alonso de Posadas, a missionary in New Mexico between 1650 and 1660 and custodian of the province between 1660 and 1664. When García set out to found the mission at El Paso, Governor Mendizábal permitted him to take with him, from the mission at Senecú, ten families of Christian Indians to use in teaching the heathen.[13] Governor Fernando de Villa Nueba, who probably administered the government of New Mexico after 1664,[14] aided García in a similar way. When the zealous father applied to Villa Nueba for six Manso boys and girls, servants of Maestre de Campo Francisco Gómez Robledo,

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[10] *Auto* of Otermín, *Autos tocantes*, folio 77; *Doc. Hist. Nuevo Mex.* p. 746. (MS in Bancroft Collection).

[11] Father Juan de Talaban was one of the martyrs of the Pueblo revolt. His body was found in the pueblo of Santo Domingo by the retreating Spaniards. See *Autos tocantes*, folios 9–10, 17; Hackett, "The Pueblo Revolt," 123.

[12] Vetancurt, *Chrónica* (Mexico, 1697), Part 1, cap. V, sec. 27, p. 98.

[13] Petition of the citizens of New Mexico, August 26, 1685, *Autos sobre los Socorros*, folio 126.

[14] Bancroft, *Arizona and New Mexico*, p. 165.

for use in teaching the Christian doctrine to the Indians at El Paso, urging the petition on the plea that it was made for the preservation of the settlement, the governor complied with his request.[15] Posadas claimed to have laid the foundation of the "conversion and convent of Nuestra Señora de Guadalupe del Paso del Rio," basing his claim, doubtless, on timely aid rendered the struggling mission. On different occasions he furnished as many as three thousand beeves, four thousand head of sheep and goats, two thousand bullocks, two hundred mares and horses, plough-shares, laborers, carpenters, implements, and all the other necessaries; this he did because the barbarous inhabitants of the place neither sowed nor knew aught of civilization, having neither houses nor huts. In a few years the settlement had nine thousand head of cattle and from thirteen to fourteen thousand head of sheep and goats, all of which were drawn upon to supply the refugees who retired there when the general revolt in New Mexico occurred in 1680.[16]

García's connection with the El Paso missions extended over a period of about twelve years. He held the office of guardian as late as 1671.[17] His last signature in the burial records was on January 30, 1671, and in the baptismal records on September 8, 1671.[18] His death occurred January 22, 1673, in the convent of Senecú, where he was buried. His life-work received high commendation from the chroniclers of his times, by whom he was regarded as a mirror of virtue.[19]

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[15] Petition of the citizens of New Mexico, August 26, 1685, *Autos sobre los Socorros*, folio 126.

[16] Information furnished by Posadas, October 8, 1685, *Autos sobre los Socorros*, folios 154–157.

[17] In the second folio of *Libro en que se acientan los casamientos desta Conbercion de los Mansos*, the following entry occurs: "On February 3, 1662, I, Fray García de San Francisco, Apostolic Commissioner of this conversion of the Mansos, in this church of Nuestra Señora de Guadalupe del Passo, Patron of said conversion and titular of this church, as principal to the marriages, and they are as follows . . . ." (*Libro Primero de Casamientos*, folio 2. Bandelier Collection.)

[18] Notes from the Juarez archives furnished by Professor Bolton and Mr. J. W. Curd of El Paso.

[19] Vetancurt, *Menologio*, pp. 24–25; Medina, *Crónica*, 1682, p. 168.

3. *The Establishment of Missions San Francisco and La Soledad.*—Before 1680 there were established within the El Paso district two other missions; they were Nuestro Padre San Francisco de los Sumas and La Soledad de los Janos. The evidence of the existence of these missions, though not extensive, is quite clear. Since it is so scattered it is brought together at this point. Governor Otermín of New Mexico, in a letter written at El Paso October 20, 1680, mentioned the "new conversions of San Francisco Toma and Nuestra Señora de la Soledad de los Janos."[20] Fray Francisco de Ayeta, writing from El Paso on December 20, 1680, said: "That to abandon it [the project] would be to abandon the missions at one stroke, not only those provinces, but the three conversions of Nuestra Señora de Guadalupe, La Soledad, and Nuestro Padre San Francisco, and all their Christian people."[21] The two missions were again mentioned in a report of the fiscal, June 25, 1682, who said: "In that district of El Paso are found three conversions, or *doctrinas*, called La Soledad, Guadalupe, and San Francisco de los Cumas, the ones which alone have remained of all those that it had in the province of New Mexico."[22]

Both San Francisco de los Sumas and La Soledad de los Janos were located to the right and on the Mexican side of the Río del Norte. Of mission San Francisco Vetancurt says: "Twelve leagues before arriving at this place [Nuestra Señora de Guadalupe] is a chapel with one religious, dedicated to Nuestro Padre San Francisco, where there are some Christians of the nation which they call Zumas and Zumanas, on the bank of the river at the place where it flows toward the east—first place where the wagons arrive on the outward trip."[23] La Soledad, on the other hand, was some distance westward, and nearer to Casas Grandes than to El Paso, though it is usually spoken of as belonging to the jurisdiction of New Mexico and in the El Paso district.

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[20] *Carta de Otermín*, October 20, 1680, in *Autos tocantes*, folio 101.

[21] *Carta de Ayeta*, December 20, 1680, in *Doc. Hist. de Nuevo Mexico*, vol. 1, pp. 541–58.

[22] *Dictamen Fiscal*, June 25, 1682, in *Autos Pertenecientes*, folio 119.

[23] Vetancurt, *Chrónica* (Mexico, 1697), Part 1, cap. V, sec. 27, p. 98.

Cruzate said it was seventy leagues from the pueblo of El Paso, and Arlegui that it was fourteen leagues from Mission San Antonio de Casas Grandes, of which it was a *visita*.[24] Unfortunately the present writer has been unable to find the dates of the establishment of San Francisco and La Soledad.

4. *Spanish Settlers at El Paso, 1659–1680.*—The occupation of El Paso by Spanish settlers appears to have taken place about the time of the first mission establishment. Though the meaning is somewhat ambiguous, one phrase in a document of 1685 leads to this conclusion. In recording the beginnings of El Paso, and referring to the period before 1660, the citizens of the villa of Santa Fé use the phrase, "and it was settled."[25] This might refer to the congregating of the Indians in an administrative group. In the same passage, however, the citizens say: "The first alcalde mayor and captain of war who was named in this pueblo of El Paso was Captain Andrés López de Gracia; and he was named by General Don Bernardo López de Mendizábal, in whose time was commenced this mission, and when it was settled, etc."[26] Mendizábal was governor about 1656–1660. As the alcalde mayor was an officer of a civil settlement and as the Indians were permitted to choose their civil officers from among themselves, these statements seem to indicate that a civil settlement of Spaniards existed at El Paso during the administration of Governor Mendizábal. Further evidence of there being Spanish citizens at El Paso at an early date is found in a letter of Francisco de Gorráez Beaumont, governor of Nueva Vizcaya from 1662 to 1665.[27] In the second year of his rule, 1663, in response to the call of the Indians around Casas Grandes for missionaries, Governor Beaumont ordered Captain Andrés García, who was settling [*poblando*] on the Río del Norte, "confines of La Vizcaya in New Mexico," to pass to Casas Grandes, with his family and certain others of his kindred who might assist him; Captain

[24] *Carta de Cruzate*, in *Expediente No. 2*, p. 45; Arlegui, *Crónica*, pp. 95–6.

[25] Petition of citizens, *Autos sobre los Socorros*, folio 126.

[26] *Ibid.*

[27] Bancroft, *North Mexican States and Texas*, vol. 1, p. 337.

García was further ordered to promote the settlement of Casas Grandes and to endeavor to congregate the largest number of Indians possible.[28] Captain Gracia's probable successor at El Paso was Maestre de Campo Diego de Truxillo, for we are told that "he who followed as alcalde mayor in this jurisdiction, although he held it for a short time only, was Maestre de Campo Diego de Truxillo, citizen of New Mexico and named by that government of New Mexico."[29]

Still further evidence that there were Spaniards resident at El Paso before 1680 is found in the marriage, baptismal, and burial records kept at the mission. The first marriage of Spaniards is recorded on November 29, 1678, the contracting parties being Francisco de Archuleta and Doña Bernardina Baca.[30] The following thirty-one names of Spaniards are taken from the baptismal and burial records before 1680; thirty of these are from the baptismal and one from the burial records: Captain Francisco Domínguez; Captain López de Grasia; Mariana García Morquez; Francisco Ramírez; Joseph López, his wife, and María, their infant daughter; Captain Andrés de García; Favian García; Don Estéban Xuárez and his wife, Catalina Sonora; Captain Antonio de Berdiquel; Sebastián García; Favian García; Juan de la Cruz; Barnabe Bisaro; Juan del Espíritu Santo; Xtoval Ruiz; Joseph Ramírez; Xtoval Baca; Sesilia de Vitoria, his wife, and María, their infant daughter; Ysabel Baca, godmother of María; Doña María de Archuleta; Doña Ynez Domínguez; Don Francisco de Zubera; María, infant daughter of Teresa Gutiérrez and Joseph López Grasia; Captain Christóbal de Fuentes; Ana María de Fuentes; Antonio Rosero; Martín Zerano; María Martín Zerano. The names occur here in the chronological order in which they appear in the records.[31]

5. *Summary of Progress before 1680.*—Meager as are the foregoing details concerning the beginnings of missions and of Span-

[28] *Doc. Hist. Mex., Cuarta Serie*, Tomo III, pp. 233-236 (Mex. 1857). According to Arlegui, *Crónica de la Provincia de N. S. P. S. Francisco de Zacatecas*, pp. 95-96, Casas Grandes was founded in 1649.

[29] Petition of citizens, *Autos sobre los Socorros*, folio 126.

[30] *Libro Primero de Casamientos*, folio 22 (Bandelier Collection).

[31] Material furnished by Professor Bolton and Mr. J. W. Curd.

ish settlement in the El Paso district, they are sufficient to show that the occupation of El Paso did not take place in 1680, as is sometimes supposed. The evidence adduced proves that there were at least three missions established and a nucleus of Spanish settlers in the region before the refugees from New Mexico withdrew there in 1680.

The importance of the missionary center may be gathered from the number of priests present in the monastery during the first two decades of its existence. From the old church records at Juárez, it is learned that before 1680 fourteen priests had been at the mission during periods of varying length—these not including the names of Father Francisco de Salazar and Fray Antonio Tabares, the assistants of Father García mentioned above. Father García, as before stated, was guardian until 1671. Fray Benito de la Natividad was there during eight years of García's guardianship. The name of Fray Juan Álvarez appears in 1667, Fray José de Truxillo in 1668, and Fray Agustín de Santa María, Fray Sebastián Navarro, and Fray Nicolás de Salazar in 1675. Of these only Fray Agustín seems to have remained in El Paso very long. Fray Juan de Bonilla, the probable successor of García, had charge of the mission in 1677, when Father Francisco de Ayeta, "Custodio y Juez Eclesiástico de las Conberziones de San Pedro y San Pablo de Nuebo Mexico," accompanied by his secretary, Fray Antonio de Sierra, made his first *visita* on October 10. In 1677 Fray Nicolás de Echavarría joined Father Bonilla, and they both served under Father Álvarez, who was guardian until 1679. On July 3, 1680, Ayeta made his second *visita*, accompanied by a new secretary, Father Fray Pedro Gómez de San Antonio, who later became guardian and served at the mission for forty years. Fray Nicolás Hurtado's name occurs in the records of 1672, and then is not mentioned for several years; later he succeeded Ayeta as custodian, Fray Pedro Gómez serving as his secretary. Fray José Valdez came to Guadalupe in 1680.

Judged by the records, the efforts of these missionaries were not remarkably successful. The following statistics indicate the

extent of the conversions. Before 1680 they had baptized eight hundred and thirty Mansos—if the Indians whose tribal affiliation was not given were Mansos—sixty-two Piros, seventeen Sumas, ten Tanos, five Apaches, and four Jumanos. The statistics of certain years are significant. From July 16, 1662, to April 1, 1663, about twenty-four Indians were baptized; between April 1, 1663, and about April 1, 1664, over three hundred Indians, chiefly adults; during 1663, the most prosperous year before September 20, 1680, two hundred and seventy-six Indians, mostly older children and adults; in 1668, only three Mansos; in 1679, seventy-one Mansos, fourteen Piros, six Sumas, two Jumanos, and two Tanos. The tribe to which the Indians belonged was not indicated in early years; after 1667 the names of Piros, Jumanos, and other tribes appear at intervals, but strict care in indicating the tribal affiliations was not taken until Father Echavarría took charge in October, 1677.[32]

The number of tribes represented at the mission is of lively interest. While the mission was primarily for the Mansos, the names of Sumas, Jumanos, Piros, Tanos, and Apaches appear in the records. The Sumas were close neighbors of the Mansos, and the wild Apache tribes infested the surrounding country. The Jumanos apparently dwelt farther away to the east; but according to a note in the records there were present in El Paso in 1670 many Indians from the Jumano pueblos.[33] The Piros appear to have come chiefly from the pueblo of Senecú, although some were registered from the pueblo of Abó, from the pueblo of Galisteo, and from San Antonio de la Isleta.[34] In 1670 and 1671 there were a number of Indians from Abó at El Paso.[35] The original home of the Tanos is not indicated; doubtless, like the Piros, they came from the interior of New Mexico. The presence of this heterogeneous body of Indians at Guadalupe del Paso points to the importance of the place as a vantage ground for Spanish occupation, and helps to explain in part the difficulty in later years of holding the Indians under restraint.

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[32] Material furnished by Professor Bolton and Mr. J. W. Curd.

[33] *Libro Primero de Casamientos* (Bandelier Collection).

[34] Material furnished by Professor Bolton and Mr. J. W. Curd.

[35] *Libro Primero de Casamientos* (Bandelier Collection).

III. THE COMING OF THE REFUGEES FROM SANTA FÉ, 1680

1. *The Temporary Settlement at El Paso.*—When the Spanish and Indian refugees from the revolted province of New Mexico fled southward toward El Paso, their first halt was made at La Salineta, a place four leagues from El Paso on the Texas side of the Río del Norte. There the fugitives remained, approximately, from September 18 to October 9. On September 29 Governor Otermín began making a muster of the soldiers and people with him. Though much delayed and inconvenienced by desertions to El Paso, Casas Grandes, El Sacramento, and other places of safety, the governor was able to report still with him on October 2 the following numbers: "Of Spaniards, one hundred and fifty-five persons bearing arms, and nineteen hundred and forty-six persons of all kinds—men, women, children, and servants; of Indians—Christian Indians who had come with the army from the pueblos of La Isleta, Sevilleta, Alamillo, Socorro, and Senecú—three hundred and seventeen persons, including men, women, and children."[1]

All the people at La Salineta seem to have shared the opinion that the permanent encampment, while considering the reconquest of New Mexico, should be made beyond the Río del Norte at El Paso. In a letter to the viceroy dated August 31, 1680,[2] Father Ayeta suggested the fortification of that point; and in a letter to Otermín dated September 16, Francisco de Agramontes of San Juan Bautista, Sonora, recommended the formation of a *plaza de armas* at the same point. Some of Otermín's military advisers, among them Juan Domínguez de Mendoza, made similar suggestions to their chief. On October 5, the same day that

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[1] *Autos levantes*, folios 45, 55, 57, 60–62, 85, 86, 87. The standard authority on this episode is Hackett, "The Retreat of the Spaniards from New Mexico in 1680, and the Beginnings of El Paso," in *Southwestern Historical Quarterly*, vol. XVI, 137–168, 258–276.

[2] *Carta de Ayeta*, in *Doc. Hist. Nuevo Mexico*, vol. 1, p. 564. (MS in Bancroft Collection).

Agramontes' letter reached Otermín, Luis Granillo presented the governor with a petition from the people congregated at La Salineta asking permission to settle near the conversion of Guadalupe, on the opposite bank of the river, where pasturage and wood were plentiful and where the people would be able to build huts to protect themselves from the cold.[3] On October 6, Otermín announced his intention of making the change; and by October 9, it had probably been effected, for on that date he drew up an *auto* summarizing the events of the revolt and headed it "*plaza de armas,*" place of the "Rio del Norte de la Toma."[4]

The disposition of the troops and the people is given in a letter of Ayeta written to the commissary general of his order on December 20. Ayeta writes:

> All the army remains on the same Rio del Norte divided into three divisions, at a distance of two leagues from each other: the governor and the cabildo in that of San Lorenzo (a name which was given in memory of the destruction having been on the day which the church celebrates for him) and with His Lordship five religious; he is also building huts in regular form, but all are dwelling in the house of poles and branches which he made with his hands; . . . the second is the Real de San Pedro de Alcántara where four other religious remain; the third is the Real del Santísimo Sacramento, where the Father Preacher Fray Alvaro de Zavaleta remains as prelate with other religious; the remainder of my religious stay in the convent of Nuestra Señora de Guadalupe, singing the chorus for the Divine Goodness as if in San Francisco of Mexico, or in Divine Providence.[5]

These arrangements were probably complete by October 20, for on that date Otermín wrote to the viceroy, saying: "I am bivouacked and fortified on this Rio del Norte, until the order of Your Excellency may come concerning what ought to be done."[6]

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[3] Hackett, "Retreat of the Spaniards," 275–276; Letter of Agramontes, September 16, 1680, *Autos tocantes*, folio 81; opinion of Mendoza, October 2, 1680, *ibid.*, ff. 64–65; *Auto* of Otermín, October 5, 1680, *ibid.*, f. 77.

[4] *Auto* of Otermín, October 6, 1680, *Autos tocantes*, folio 85; *ibid.*, ff. 86–87.

[5] *Carta de Ayeta*, December 20, 1680, *Doc. Hist. Nuevo Mexico*, vol. 1, pp. 552–53. (MS in Bancroft Collection.)

[6] *Autos tocantes*, folio 102.

2. *Provision for a Presidio at El Paso.*—No later than October 12, Otermín held a council of war for the purpose of determining the immediate needs of the occasion. Though the discussions looked primarily to the reconquest of New Mexico, they had an important bearing on the future development of El Paso. It is significant that the first two items in the long list of things needed relate to settlers and soldiers: "First, at the very least, two hundred paid settlers; item, fifty soldiers for a presidio, current wages."[7] The need of a presidio was brought forward again by Otermín in a letter of October 20. He said:

> It being known that this conversion of this pueblo, which exceeds two thousand souls, would be lost, as well as the other new conversions of San Francisco Toma, and Nuestra Señor de la Soledad de los Janos—which have been assembling and reconciling and are in good condition—and likewise the conversion of Casas Grandes, Carretas, and others in those environs which are asking permission to settle in the same neighborhood of Casas Grandes with those of their territory, and communication between Parral and Sonora; because it is certain, sir, that New Mexico lost, they will not dare to remain here or in the said parts without thirty or forty soldiers at least as support.[8]

On January 7, 1681, when the fiscal made his report on the *autos* and other communications submitted by Otermín, he recommended the establishment of a presidio of fifty paid soldiers among the three new conversions at El Paso; he based his recommendation on the royal *cédulas* for settlements and new conversions, which provided for paid garrisons on all frontiers. He further advised that the place chosen for the congregation of the Spaniards should be carefully selected, because the calamities of New Mexico had arisen partly from the fact that the settlements were scattered thirty or forty leagues apart. The presidio and settlement so made would be regarded as the seat of jurisdiction and the head of New Mexico.[9]

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[7] *Instrucción y Norma*, in *Autos tocantes*, folio 104; see also opinion of Mendoza, October 2, 1680, *ibid.*, ff. 64–65; opinion of the cabildo, October 3, 1680, *ibid.*, ff. 73–75.

[8] *Carta de Otermín*, in *Autos tocantes*, folio 101.

[9] *Dictamen Fiscal*, January 7, 1681, *ibid.*, folio 90.

Before a junta general acted on the recommendations of the fiscal, Father Ayeta submitted his report and other documents bearing on New Mexican affairs. Because of these additional reports having been brought forward, a junta general of January 10 turned the entire matter over to a committee for consideration. This committee's report called for one hundred and fifty settlers at a stipend of two hundred and fifty pesos each, and for fifty soldiers at three hundred and fifteen pesos each. In addition there was to be an armorer.[10]

The junta general of January 17 resolved that for the protection of the people at El Paso, and to prevent the enemy from passing to Sonora and Parral, a presidio should be formed with fifty men at a yearly salary of three hundred and fifteen pesos each, paid as the soldiers of the presidio of Sinaloa; that there should be an armorer without additional pay whose duty it would be to mend the arms; that none of the soldiers should be of those who came from New Mexico and were congregated at El Paso but of those New Mexican citizens who in former years had deserted to Parral, Sonora, and their environs, in default of whom the governor might enlist other persons of the latter places; that after the reconquest of New Mexico the presidio might be removed to the place which appeared most convenient to the viceroy; and that the soldiers of the presidio must not be employed in the expedition planned for the reconquest of New Mexico.[11]

The resolution of the junta general was doubtless the result of a royal *cédula* of June 25, 1680, which approved of an additional presidio of fifty soldiers for New Mexico, armed and paid as were the soldiers of the presidio of Sinaloa—a *cédula* issued in response to a petition of Fray Francisco de Ayeta, dated May 28, 1679, and one of the viceroy Don Fray Payo de Ribera, dated June 19, 1679.[12] The location of the presidio was left to

[10] Action of the junta general, January 10, 1681, *Autos tocantes*, folio 110; report of the committee, *ibid.*, ff. 111–112.

[11] Proceedings of the junta general, January 17, 1681, *ibid.*, folios 114–115.

[12] Royal *Cédula*, June 25, 1680, *ibid.*, folio 94.

the discretion of the viceroy, Conde de Paredes, Marqués de la Laguna.

In accordance with the royal orders and the action of the junta general, on September 18, 1681, Governor Otermín ordered a muster of all the soldiers and citizens of El Paso, preparatory to enlisting the soldiers and settlers for the projected presidio and for the expedition planned for the reconquest of New Mexico. Between September 23 and 30 he enrolled the fifty soldiers and the armorer for the presidio; and on October 8 he issued a proclamation in which he declared that he had been unable to comply with that portion of the royal order which required these men to be chosen from those citizens of New Mexico who had in former times deserted to Parral, Sonora, and other neighboring places, since only one of those men had returned to El Paso. Otermín issued orders forbidding the soldiers to leave El Paso during his absence or to gamble with military equipment. It seems that the men composing the presidio were to be stationed at the Plaza de Armas de San Lorenzo, though the documents are not quite clear on that point.[12a]

3. *More Permanent Organization, 1682.*—In the autumn of 1681 Otermín made an expedition to New Mexico for the purpose of subduing the revolted Indians and re-establishing Spanish

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[12a] Order for a general muster, September 8, 1681; list of soldiers and settlers for the projected presidio, September 23–30; Otermín, Bando, October 8–23; all these documents are contained in a bundle of manuscripts connected with Governor Antonio de Otermín's attempted reconquest of New Mexico, and dated September 2–November 10. (Santa Fé Archives in Library of Congress.) The following is a list of the soldiers enlisted by Governor Otermín between September 23 and September 30, 1681, for the presidio which the king had ordered established at El Paso. The names of the men are accompanied by personal descriptions: Pedro de Reneros Posada, 30 years of age; Diego de Ynojos, 24; Simon de Molina, 33; Josephe Lopez, 41 (?); Don Josephe de Ugarte, 29; Alférez Francisco Luzero, armorer, 23; Antonio Ramires, 36; Xptobal de Truxillo, 30; Sarjento Mayor Sebastian de Herrera, 44; Sarjento Mayor Domingo Lopez, 42; Josephe Lopez de Ocanto (or de Olanto), 19; Captain Francisco Xavier, 25; Sebastian de Herrera, 16; Joseph Laureano Barela de Losada (?), 20; Bartolome de Truxillo, 18; Francisco Garcia, 42; Josephe Sanchez Alejandro, 21; Sarjento Mayor Bartolome Gomez Robledo, 42; Bartolome Gomez Robledo el Mozo, 20; Antonio Gomes, son of Maestre de Campo Francisco Gomez Robledo, age not given; Juan Luis de Casares, 24; Domingo Lujan, 26; Andres Hurtado, 20; Francisco Hurtado, 17; Tomas de Arbisu, 18; Alonso Rodriguez, 42; Juan de Arbisu, age not given; Pedro de Avalos, 24; Xptoval Barela de Losada, 19; Don Juan

control in the lost province. Achieving only negative results, he withdrew toward El Paso in January, 1682, bringing with him a body of loyal Indians from the pueblo of Isleta. When Otermín reached Estero Largo, forty leagues above El Paso, he found that of the three hundred and eighty-five Indians who had set out with him from Isleta, only three hundred and five remained.[13] These Indians, added to those who had retreated with him in 1680, must have made a fairly large element of foreign Indian population at El Paso, and a sufficient number to complicate the situation there, which was already regarded as serious as early as October 16, 1680.[14] Recognizing the need of a settled place of residence for the Indian population and more satisfactory quarters for the Spanish refugees, Otermín took steps immediately to secure those ends.

While still encamped at Estero Largo, Otermín wrote to the viceroy giving him a full account of the expedition. In this letter, dated February 11, 1682, among other things, he said: "Those [Indians] I bring here with the purpose of settling them where it may be convenient, with others of their nation who came out the other time, because it was impossible to maintain and preserve them in their pueblo inland; I also set out with the purpose of assembling and reducing the Spaniards to two or three settlements, where it should seem more convenient, as also the presidio, in order that they may plant [crops], since on this depends their subsistence."[15] Writing from the same place and on the same day, Father Ayeta informed the viceroy of Otermín's

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de Chauez, 18; Vezindo (Vicente) Lopez Penuelas, 20; Diego de Labra (?), 23; Alférez Juan de Carigos (?), 24; Luis de Caravajal, 22; Xptoval Holguin, 25; Salbador Guillen, 33; Diego Lopez, 26; Antonio Gutierres de Figueroa, 19; Antonio Ramires, 36; Juan Griego, 20; Agustin Griego, 24; Juan de Zuaco, 25; Rafael Tellez Xiron, 21; Feliphe Vravo (Bravo), 36; Grausel Ramos, 30; Diego Luzero, 19; Salvador Duran, 31; Josephe Dominguez de Mendosa, 24; Gregorio Conos de la Parra (?), 40; Josephe de Madrid, 22; Agustin Laef (?), 23.

[13] Petition of the cabildo, *Autos sobre los Socorros*, folio 32; *Auto de Determinación de Pareseres de Junta*, in *Autos Pertenecientes*, folio 93; *Auto de Remission, ibid.*, ff. 101–102; and *Dictamen Fiscal, ibid.*, ff. 114–115; letter of Otermín, *ibid.*, folio 104.

[14] Petition of the cabildo, October 16, 1680, *Autos tocantes*, folio 98.

[15] Letter of Otermín, February 11, 1682, *Autos Pertenecientes*, folio 105; *Dictamen Fiscal, ibid.*, f. 119.

intention to settle the Spaniards and Indians "in union" and in sufficient number to resist the enemy, with the help of the presidio; and of his intention to make of the people citizens and not unsettled herdsmen, for neither the church nor the king had any use for the latter. As this mode of settlement differed from the form used in New Mexico, Ayeta thought the viceroy would have to make special provision for it. Ayeta, moreover, disapproved the close union of the two people, because of the epidemic among the Indians. His letter seems to have reached the court of Mexico before Otermín's letter, for it was given to the fiscal on April 13. The fiscal recommended that the refugees settle in the places which the governor found most convenient, separating the Indians from the Spaniards, but disposing the sites so that all would be under the protection of the presidio and able to defend themselves against the enemy. In this way the presidio would serve as a bulwark for the provinces of Sonora and La Vizcaya, and would be more valuable than as erected in the villa of Santa Fé, where, because of the great distances, the intervening Apache enemy, and the fact that the fort faced the enemy on all sides, its security was threatened, aid was difficult, and the congregations and missionaries were left exposed to such lamentable experiences as the revolt of 1680.[16]

It was not until June 25 that the fiscal gave his opinion of Otermín's recommendations. In the main points his reply was the same as that given to Ayeta's letter. He said Otermín's plan was convenient, because the three loyal conversions of Guadalupe, San Francisco, and La Soledad, and the loyal Indians who had retreated from New Mexico, all deserved protection. With these Indians it would be possible to form one or two settlements, at a little distance from each other, but under the shelter of a presidio of fifty men, centrally located. For better defense and an increase in the number of Spaniards at El Paso, the fiscal favored excluding from the presidio the men already

[16] Letter of Ayeta, February 11, 1682, *Expediente No.* 2, p. 37; *Dictamen Fiscal*, undated, *ibid.*, pp. 28–39 (a fragment).

settled at El Paso and enlisting soldiers from Parral, Sonora, and other places. To avoid dissatisfaction he favored imposing upon the governor, or the person having these arrangements in charge, grave punishment for failure to comply with the orders. To avoid disputes over animals and oppression of the Indians, he repeated the necessity of separating the Indians from the Spaniards.[17]

The action taken by the junta general with reference to the above recommendations of the fiscal is gathered from secondary sources, as the document itself is missing from the collections now available. From these secondary sources, it is learned that the junta general gave its decision on July 28. It provided that the soldiers of the presidio should be enlisted in Zacatecas, and not in Parral or Sonora, as the fiscal advised; and that they should receive three hundred and fifteen pesos each per year, as did the soldiers of Sinaloa. The action of this junta general, which was based on the royal *cédula* of 1682, was reported to the king in a letter dated December 22, 1682. Accordingly, on September 4, 1683, the king issued another *cédula* confirming the action of the junta general of July 28, 1682.[18]

Whether Otermín awaited orders from the superior government or put into immediate execution his plan of settlement, is not clear from the documents now available.[19] Before locating the Spaniards and Indians, however, he took with him several members of the cabildo and made a careful examination of both banks of the Río del Norte, from Estero Largo to La Toma, the conversion of the Sumas. He found no place that appeared more suitable for settlement than San Lorenzo, which was chosen, not because of its positive fitness, but because it appeared possible to maintain the Spaniards there until the orders of the viceroy

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[17] *Dictamen Fiscal*, in *Autos Pertenecientes*, folio 119.

[18] *New Mexico Cédulas* (No. 167), No. 7, folios 11–14 (MS in Bancroft Collection); opinion of the fiscal, *Expediente No. 2*, p. 26.

[19] In the collections of documents used in preparing this paper there appear only one or two signed by Otermín between February 11, 1682, and August, 1683, at which time Cruzate assumed the government; and none of these relate to Otermín's disposition of the people at El Paso.

should arrive.[20] The Spaniards, therefore, were placed in San Lorenzo, a league and a half from the mission San Francisco de los Sumas[21] and about twelve leagues from El Paso.[22] The Indians were settled in three pueblos. According to Escalante their location was as follows: "two leagues, [or] more below Nuestra Señora de Guadalupe del Paso, with Piros and Tompiros Indians, the pueblo of Senecú; a league and a half toward the east, with Tihuas Indians, the pueblo of Corpus Christi de la Isleta; twelve leagues from El Paso, and seven and a half from Isleta, following the same Río del Norte, with Piros Indians, a few Thanos, and some more Gemex, the third pueblo, with the appelation of Nuestra Señora del Socorro."[23] The founding of the presidio, in accordance with the recent ruling, was probably left for execution to Otermín's successor, Don Jironza Petriz de Cruzate.

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[20] The cabildo to the viceroy, July 6, 1684, *Autos sobre los Socorros*, folio 149; letter of the cabildo, September 27, 1685, *ibid.*, f. 145; the cabildo to Cruzate, September 20, 1684, *ibid.*, f. 36; *Auto* of Cruzate, *ibid.*, ff. 34–35.

[21] Vetancurt, *Chrónica* (Mex. 1697), Part I, chap. V, sec. 27, p. 98.

[22] *Auto* of Otermín, in *Autos sobre los Socorros*, folio 37.

[23] Escalante, *Carta de 1776*, pp. 120–121, in *Doc. para la Historia de Mexico, Tercera serie* (Mex. 1856); see also Bonilla, *Apuntes sobre el Nuevo Mexico*, in *New Mexico Cédulas*, folio 1 (MSS in Bancroft Collection).

IV. THE FOUNDING OF THE PRESIDIO AND THE REORGANIZATION OF THE SETTLEMENTS, 1683

1. *Equipment for the Presidio.*—In 1683 a change of governors occurred in New Mexico, probably occasioned by Otermín's request, made on February 11, 1682, for a leave of absence to go to Parral for medical attention. As the fiscal disapproved of granting the leave of absence on account of the unsettled conditions at El Paso, it is probable that the junta general of July 28 recommended the appointment of Don Jironza Petriz de Cruzate to relieve Otermín, for a royal *cédula* was issued in 1682 approving the appointment of Cruzate as governor of New Mexico.[1] The founding of the presidio and the reorganization of the settlements at El Paso followed the change of executives.

It has been stated before that the junta general of July 28, 1682, provided for a presidio of fifty soldiers to be enlisted at Zacatecas at a salary of three hundred and fifteen pesos a year each, according to the custom in Sinaloa.[2] As soon as Cruzate was named for the office of governor, he began immediately to make plans for putting the order of the junta general into execution. On August 26, he presented the viceroy with a petition asking for three years' salary in advance, urging as his reason the necessity of making a long journey to enlist the soldiers, and his wish to take a force of eight or ten men to New Mexico at his own expense. The viceroy granted him the two years' pay in advance.[3]

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[1] The writer has already indicated that the document containing the resolution of the junta general of July 28, 1682, is a fragment. Moreover, the writer has not seen the *cédula* mentioned above, the title of which is listed in Bandelier's collection of New Mexican documents in the *Report of U. S. Commission to the Columbian Historical Exposition at Madrid*, 1892–93, in *House Exec. Doc., 2nd Sess., 53rd Congress, 1894–95*, vol. 31, p. 318.

[2] *Dictamen Fiscal*, in *Expediente No. 2*, pp. 38–39.

[3] Petition of Cruzate, in *Expediente No. 2*, p. 6; the viceroy to the fiscal, *ibid.*, p. 6; opinion of the fiscal, *ibid.*, p. 6; the viceroy to the royal officials, *ibid.*, p. 6; opinion of the royal officials, *ibid.*, pp. 6–7; decree of the viceroy, *ibid.*, p. 7.

Having provided for himself, Cruzate devoted his energies to securing the equipment of his men. Between August, 1682, and March, 1683, a vigorous correspondence took place between Cruzate and the government officers.[4] The debate centered around the number of carbines needed; the amount of powder and balls; the money for building a fort, or stronghold; the place and manner of paying the soldiers; the grant of carts for carrying freight; and a leader to conduct the soldiers to New Mexico. At least three sets of petitions were filed by Cruzate. The viceroy confirmed the fiscal's reply to the first series on September 15, 1682.[5] Some of the grants of supplies seemed insufficient to Cruzate, and he asked for a reconsideration. His petition was placed before the junta general for further examination,[6] but before the junta general met, a change of fiscals occurred and Cruzate seized the opportunity to open a second series of petitions. The new fiscal sustained the opinion of his predecessor in all things excepting the place of paying the soldiers; he favored the use of the treasury at Zacatecas rather than that of Durango.[7] Cruzate was still dissatisfied with the equipment given him. When Father Ayeta appeared in the City of Mexico in January, 1683, Cruzate made use of his intimate knowledge of New Mexican affairs to secure the equipment he wanted. The fiscal interviewed Ayeta, and the junta general eventually met on January 27, 1683, and passed finally on all petitions presented by Cruzate, ordering all in the light of the information furnished by Ayeta.[8]

Cruzate was given fifty mounted soldiers and fifty carbines for the soldiers; two carbines apiece was the usual grant, but the authorities thought the deficiency could be supplied out of the hundred carbines which Ayeta took to El Paso in 1681. The customary grant of one hundred pesos for the purchase of lead was sustained, and the customary grant of ten quintals of

[4] *Expediente No. 2*, pp. 1–43.

[5] Petition of Cruzate, *Expediente No. 2*, p. 8; the viceroy to the fiscal, *ibid.*, p. 8; opinion of the fiscal, *ibid.*, pp. 8–9; the viceroy to the royal officers, *ibid.*, p. 9; opinion of the royal officers, *ibid.*, p. 10; decree of the viceroy, *ibid.*, p. 10.

[6] *Expediente No. 2*, pp. 14–17.

[7] *Ibid.*, pp. 18–25.

[8] *Ibid.*, pp. 28–34.

powder was increased to twelve quintals, with the provision that it should be bought of the government contractor at the price given the king. A grant of two thousand pesos was made for building a stronghold for the lodging of the civil and military organizations; the grant specified that the stronghold should be built of adobe by paid Indian labor, and that the progress and cost of the structure should be reported to the royal tribunal. The three hundred and fifteen pesos allowed each soldier yearly was ordered paid from the treasury of Zacatecas, instead of Durango, in the form practiced in the villas of Cerralvo and Cadereita; advance pay of three pesos a day, to be deducted from the salary of 1684, was granted each soldier in addition to the two months' pay in advance given at the time of enlistment and of setting out to New Mexico.[9] A decree of the viceroy of September 15, 1682, ordered the money for the soldiers paid to the governor, or to the chief legally in charge of the presidio, upon receipt from that officer of a certified list containing the names of all the soldiers actually present in the presidio during the year, with a statement of their arms and horses, the numbers absent, fugitive, sick, or dead, and the names of the substitutes enlisted, with the date of their enlistment.[10] The three carts asked for in place of the customary grant of eight hundred pesos for freightage were withheld on the ground that they had not been given since 1674; but a number of carts were given to the religious in which to take their supplies to New Mexico.[11]

In February Cruzate petitioned for a *cabo comisario* and an *aposentador* to conduct his soldiers to New Mexico, and asked that Miguel de Salazar y Guzmán and Manuel Saenz de Cuacocas be appointed to those positions at the usual pay. A junta general of March 16 ordered that the viceroy should name a *cabo comisario* at a salary of two ducats a day above the pay of a private soldier, the pay to begin on the day of taking command of the soldiers and to end when the soldiers were delivered at El Paso.[12]

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[9] Action of the junta general, *Expediente No. 2*, pp. 33–36.
[10] *Ibid.*, pp. 8–10.
[11] *Ibid.*, pp. 1–5, 14–15, and 33–36.
[12] *Ibid.*, pp. 40–43.

2. *The Founding of the Presidio.*—As soon as Cruzate reached El Paso, about the thirtieth of August, 1683,[13] he made a search for a suitable place to locate the presidio and the villa. Taking with him two members of the cabildo, the *regidor* and *procurador general,* Alonso del Río, Captain Ygnacio Vaca, Alcalde Juan Lucero de Godoy, Maestre de Campo Francisco Gómez Robledo, Sargento Mayor Lorenzo de Madrid, and some citizens, he searched both banks of the Río del Norte for a distance of sixteen leagues and examined the region immediately around Pueblo del Paso, but found no place suitable for settlement; some parts were submerged or muddy from the freshets, and others were exceedingly high and dry.[14] He finally placed the presidio, which was called Nuestra Señora del Pilar y el Glorioso San José, about seven leagues from the pueblo of El Paso, and midway between that place and the Real de San Lorenzo.[15]

As Cruzate brought to El Paso only twenty of the fifty soldiers he was required to enlist, he was compelled to complete the quota by enlisting some strangers found at El Paso and some of Otermín's veterans.[16] He appointed the officers of the presidio and distributed among the soldiers the fifty carbines which the government had given him, and four boxes which he had brought at his own expense.[17] Writing to the viceroy on October 30, 1683, Cruzate reported that he had only fifty soldiers in the presidio, and that he was very short of Spaniards,[18] from which statement it appears that the male population of El Paso must have been scant. However, the muster roll submitted May 30, 1684—doubtless the annual report required before paying the soldiers their wages—showed a total of fifty-six, including the

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[13] Certification of the cabildo, *Autos sobre los Socorros,* folio 135; petition of the cabildo, *ibid.,* f. 145.

[14] Petition of the cabildo, *ibid.,* folio 20; *Auto* of Cruzate, *ibid.,* ff. 34-35; petition of the cabildo, *ibid.,* f. 36; *Auto* of Cruzate, *ibid.,* f. 37.

[15] Petition of the cabildo, *ibid.,* folio 20.

[16] Certification of the cabildo, *ibid.,* folio 135; petition of the cabildo, September 27, 1685, *ibid.,* f. 146; petition of the cabildo, July 6, 1684, *ibid.,* ff. 149-50.

[17] Letter of Cruzate, *Viage,* p. 89; *Dictamen Fiscal,* in *Viage,* p. 83.

[18] Letter of Cruzate, *Expediente No. 2,* p. 52.

officers, forty foreigners, and sixteen veterans of New Mexico. The sixteen veterans were substitutes for six fugitives, eight ill, and two absent with permission. Roque Madrid, a veteran of New Mexico, was named in the muster roll as the captain of the presidio.[19]

3. *Reorganization of the Settlements.*—At the same time that Cruzate located the presidio, he made an effort to change the site of the villa of Santa Fé from San Lorenzo to a place about one league from the pueblo of El Paso. He hoped by this change to improve the condition of the people by enabling them to make use of the canal in irrigating their crops. He promised to enlarge the canal, and actually cut a quantity of timber for use in constructing the buildings on the new site, but the citizens thought the place selected inconvenient and without good pasturage or wood. Cruzate, therefore, let the matter drop.[20]

Although Cruzate did not change the site of San Lorenzo, a reorganization of both the Indian and the Spanish settlements took place under the direction of Fray Nicolás López, who probably accompanied the new governor to El Paso. López gave an account of his work in a representation to the viceroy made in June, 1685. His first care on reaching El Paso, he said, was the betterment of the Spanish and the Indian settlers; he put the villages in good condition and added others at suitable distances, conforming his arrangements to the royal ordinances which provided for the separation of the Indians from the Spaniards.[21] He formed the "settlement (*población*) of the pueblo of Socorro of Piros Indians; that of San Francisco of Sumas Indians; that of the pueblo of Sacramento of Tiguas Indians; that of the pueblo of San Antonio de Senecú of Piros and Tompiros Indians; the new conversion of Santa Getrudis of Sumas Indians; the conversion of La Soledad of Janos Indians; the settlement of San Lorenso of Spaniards; that of San Pedro

[19] Muster roll, *Autos sobre los Socorros*, folios 57–58.

[20] Petition of the cabildo, October 27, 1684, *ibid.*, folio 20; *Auto* of Cruzate, *ibid.*, ff. 34–35; *Auto* of Cruzate, *ibid.*, f. 38; petition of the cabildo, September 30, 1684, *Ibid.*, f. 11.

[21] This was also in accordance with the recommendation of the fiscal, June 25, 1682. See *Autos Pertenecientes*, folio 119.

de Alcántara, that of Señor San José, and that of the old pueblo of Isleta—these [last] four of Spanish citizens (*vecinos*)."[22]

The conversions of San Francisco de los Sumas and La Soledad de los Janos will be recognized as two of the three old settlements already established in the El Paso district before 1680. The pueblos of Socorro and San Antonio de Senecú were probably the same that Otermín settled in 1682. Of the pueblo of Socorro, Escalante, writing a century later, says: "In the year 1683 the Indians of this pueblo attempted to take the life of their minister, Father Fray Antonio Guerra, and one or two families of Spaniards who were there, which crime they did not accomplish, because the Zumas who were congregated with them discovered them. The principal movers fled to New Mexico, and those who remained went, under order of the governor, to another place much nearer to the pueblo of Isleta, where the pueblo is today, which was the second time they established it with the name of Socorro."[23] The Tigua pueblo of Sacramento appears to have been a new mission settled on the site of the Real del Santísimo Sacramento, one of the camps located by Otermín in 1680. The "new conversion of Santa Getrudis, of Sumas Indians" was founded by López at a place called El Ojito, twelve leagues from Nuestra Señora de Guadalupe del Paso.[24] The following account of Santa Getrudis was given by Escalante: "In the year cited of '83, on October 24, the first mission of Zumas Indians was established eight leagues to the south of the pueblo of El Paso, in the place which they now call Ojito de Samalayuca. This mission exists no longer, because the following year of '84 they revolted with the Manso Christians and infidels, with the Janos, and other Sumas; and they apostatized."[25] López does

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[22] *Representación* of López, *Autos sobre los Socorros*, folio 84. Quoted by Bolton in *The Texas Hist. Assn. Quarterly*, vol. 12, p. 149.

[23] Escalante, *Carta de 1778*, pp. 120–121, in *Doc. para la Historia de Mexico, Tercera Serie* (Mex. 1856).

[24] Petition of the cabildo, July 6, 1684, *Autos sobre los Socorros*, folio 149; certification of Cruzate, October 4, 1684, *ibid.*, f. 80; petition of the cabildo, September 27, 1685, *ibid.*, f. 145; letter of Cruzate, July 25, 1684, *Expediente No. 2*, p. 46.

[25] Escalante, *Carta de 1778*, pp. 120–121, in *Doc. para la Historia de Mexico, Tercera Serie* (Mex. 1856).

not mention Corpus Christi de Isleta among his Indian settlements; it is probable that López's "old pueblo of La Isleta" of Spaniards was formed on the site of Otermín's Indian pueblo of that name,[26] or adjoining the Indian pueblo, though in the latter case it seems that López would have included the Indian pueblo in his list. San Lorenzo and San Pedro de Alcántara were probably on the same sites chosen by Otermín in 1680. The pueblo of Señor San José was probably a new Spanish settlement placed on the site of the presidio.[27]

4. *The Establishment of Missions at La Junta de los Ríos.*—After López had completed his arrangement of the settlements at El Paso, he undertook a missionary journey to La Junta, one hundred leagues or more below El Paso, at the junction of the Conchos River with the Río del Norte, and to the Jumano country. His work at La Junta was the natural sequence of earlier and similarly ineffectual efforts to Christianize the Julime Indians, who dwelt at that place. No less a personage than Fray García de San Francisco, the founder of Nuestra Señora de Guadalupe del Paso, had visited the pueblos, said mass, and returned to El Paso, promising to come again. His visit, which probably antedated 1671,[28] was followed by that of another religious of his own order, named Fray Juan de Sumesta, who visited the first pueblo only, and soon returned to El Paso.[29]

Another account of an effort to Christianize the Indians of La Junta, in the details of which there are some discrepancies, is recorded by Menchero, an eighteenth century chronicler of

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[26] The cabildo informed Cruzate that the natives of the pueblo of La Isleta were unable to inhabit it. See the petition of the cabildo, September 30, 1684, *Autos sobre los Socorros*, folio 41.

[27] Bonilla mentions San Antonio, Senecú, Nuestra Señora del Socorro, San Lorenzo del Realito, and Corpus Cristi as the four missions formed for the Indians who moved out from their missions of San Agustín de la Isleta, Socorro, and Senecú, and retired with the Spaniards to El Paso. See Bonilla, *Apuntes sobre el Nuevo Mexico*, in *New Mexico Cédules*, folio 1.

[28] See page 309. A brief account of the missions at La Junta is given by Bolton in his "Spanish Occupation of Texas," pp. 19–20, and in his "Jumano Indians in Texas, 1650–1771," pp. 72–73.

[29] Mendoza, *Segunda Representación*, June 13, 1684, in *Viage*, p. 49.

New Mexican affairs. According to this writer, the La Junta missions had their beginnings in 1670, when two religious from New Mexico appeared at the pueblos and preached the gospel to a great number of heathen Indians, remaining among them two years. A dispute arising among the natives over the question of whether or not they should embrace the faith, they determined to expel the friars from their lands, naked and without food or guide for their journey home. The rejected priests set out for Parral. Meanwhile the governor of Parral received news of their plight and set forth with some people to rescue them. He met them on the road, dying of cold and hunger, succored them, and sent them in safety to New Mexico.[30] There is a probability that this is a confused account of López's visit to La Junta in 1683, to be recounted later. Escalante tells the story of a similar treatment having been meted out to the two priests left at La Junta by Father López; but according to the information furnished by López, the Christian Indians conducted the priests to Parral in safety. The Julime Indians, moreover, told Mendoza in 1684 that no Spaniards or religious had been among them since Fray Sumesta's withdrawal.[31]

In 1683 several deputations of Indians from La Junta and from the Jumano tribes on the Colorado River appeared at El Paso, asking for seculars and religious to settle and convert their lands. The last of these deputations appeared after López's arrival at El Paso. López became deeply interested in this new field for religious work, and resorted to a device to test the sincerity of the petitioners. He told them it was very inconvenient to say mass without a church for the purpose. Not daunted by this new obstacle placed in the way of their desires, the leaders took the measurements of the church at El Paso and dispatched them to La Junta by couriers with an order to have a church built. Within twenty days, a messenger returned, accompanied

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[30] Menchero, *Informe*, undated, in *Doc. Hist. N. Mex.*, vol. 2, pp. 746-749; Villa Señor, *Theatro Americana* (Mexico, 1746), vol. 2, pp. 411-422.

[31] Escalante, *Carta de 1778*, in *Doc. para la Hist. Mex., Tercera Serie*, pp. 121-122 (Mex., 1856); López, *Representación*, in *Viage*, p. 64; Mendoza, *Segunda Representación*, June 12, 1684, *ibid.*, p. 49.

by more than sixty men and women, to report that the natives at La Junta were busy building two churches.[32]

Convinced of the sincerity of the Indians, Father López determined to go to La Junta. Taking two priests, Fathers Acevedo and Zavaleta, he set out on foot, in company with the Indians. After thirteen days of arduous travel, following the course of the Río del Norte and passing many Suma settlements, he arrived at his destination. There he found a good-sized church, built of reeds, with an altar the size of that in the church at El Paso. Passing six leagues beyond, he found another church, larger and more carefully made, and a dwelling for the priests. López halted there, and began catechizing the adults and baptizing the infants. He found among them a number of Christians who had been baptized at Parral. While López was at work there, seven other nations built churches for the purpose of having him say mass for them, and many other nations petitioned him for religious. He endeavored to retain the friendship of all these tribes by promising to bring them priests as soon as he could get them from Mexico.

When Father López had the natives fairly well under administration, and had helped them plant crops of maize, wheat, beans, pumpkins, melons, watermelons and tobacco, he made a report of his work to Cruzate, and asked him to send him sixty men. In the meantime Cruzate had commissioned Maestre de Campo Juan Domínguez de Mendoza to make a journey to the eastern Jumano country. Mendoza set out from El Paso on December 15, and reached La Junta on the twenty-ninth. With Mendoza as escort, López continued his journey to the Jumano country. Leaving Father Acevedo in charge of the new missions, he took with him Father Zavaleta and set out for the east on January 1. As the story of the visit to the Jumano country does not bear directly on El Paso history, attention will be devoted to the work of Father Acevedo, during Father López's absence.

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[32] Otermín, *Informe*, August 11, 1683, *Expediente No. 2*, p. 60 ff.; report of Juan Sabeata, October 20, 1683, *Viage*, pp. 5–10; *Representación* of López, *ibid.*, pp. 60–61.

Missionary work at La Junta progressed satisfactorily under the direction of Acevedo. More than five hundred men, women and children accepted Christianity, and many men and women consented to be married according to the rites of the church. All of the churches were completed. The Indians seemed well pleased with their share in the work, and on the return of López begged him to ask Acevedo whether they had taken good care of him and provided him with meat and wheat. On the twelfth of June, when López and Mendoza were about to return to El Paso, the chiefs of the nations and about five hundred people petitioned him for six more religious to assist Acevedo in his work, saying that their pueblos were so scattered that one priest could not minister to them all. López agreed to leave Father Zavaleta with Acevedo, and promised to send additional priests as soon as he could bring them from Mexico.[53] What occurred at La Junta subsequently will appear in the next chapter.

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[53] *Representación* of López, in *Viage*, pp. 61–62; *Diario*, *ibid.*, pp. 11–19, 55–56, 63–64, and 93.

V. THE REVOLT OF THE MANSOS AND THEIR NEIGHBORS

1. *Indian Unrest and the Outbreak of the Revolt.*—When, in 1683, the presidio was founded, and both the Indian and the Spanish pueblos were rearranged by Cruzate and López, the settlements at El Paso seemed assured in the places assigned them. But no such permanency resulted, for there occurred in the spring of 1684 a general revolt of the nations in and near El Paso which made a more compact organization of the settlements imperative and caused the abandonment of the missions at La Junta.

At the time when the Spaniards took up their residence at El Paso in 1680, they felt a certain insecurity from the neighboring Indians, for rumors were afloat while the refugees were still at La Salineta that the Indians of the El Paso missions and those of Sonora and other neighboring places were in a general convocation, and that the Mansos would kill all the Spaniards who might escape the Indians of the interior.[1] The unrest seems to have been general, for Señor Agramontes, of San Juan Bautista, wrote Otermín that the Janos, Yummas [Yumas?], and other neighboring tribes were all of one temper and likely to be influenced by the Indians of New Mexico.[2] Otermín, moreover, wrote the viceroy that it was rumored in the conversion of Guadalupe that the Sonora Indians were restless, and that the Mansos and Sumas were not secure from their influence.[3] The alcaldes and regidores, also, in an *auto* of October 3, mentioned the rumor of a convocation of Sonora and El Paso Indians.[4] On October 16

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[1] Opinion of the field marshals, etc., *Autos tocantes*, folios 64–65; opinion of the ayuntamiento, *Autos tocantes*, f. 74; letter of Ayeta, August 31, 1680, *Doc. Hist. Nuevo Méx.*, vol. 1, p. 564.

[2] Letter of Agramontes, September 16, 1680, *Autos tocantes*, folio 81.

[3] *Auto* of Otermín, October 2, 1680, *ibid.*, folio 64.

[4] *Auto* of alcaldes and regidores, October 3, 1680, *ibid.*, folio 74.

the cabildo informed the governor that the Indians of El Paso were living without much subjection, and advised him not to permit them to go to Nueva Vizcaya, especially the Piros and those of the conversion of Guadalupe.[5] On October 20, Otermín reported that three Indians had been arrested at Casas Grandes on suspicion of plotting a revolt.[6] In December Father Ayeta mentioned a threatened revolt in Nueva Vizcaya, and said the danger was heightened by the fact that the Indians were united.[7]

The influence of the New Mexican rebels was not the sole inciting cause of this general Indian unrest. The Apaches, long-standing enemies of the Spaniards, were constantly undermining Spanish influence over the more tractable tribes. Even before the New Mexican revolt they had forced the Indians of Senecú, Socorro, Alamillo, and Sevilleta, to abandon their pueblos.[8] The Apaches, moreover, endeavored repeatedly to draw the Christian Indians into their alliance and frequently succeeded. Only the incessant attacks of the Spaniards prevented their destroying the kingdom.[9] On January 30, 1682, Fray Nicolás Hurtado, the custodian, reported that during that month the Apaches had carried off two hundred horses (*bestias*) from the Real de San Lorenzo and El Paso, belonging to Maestre de Campo Alonso García and others.[10] At the time when Cruzate took possession of the government, he found it necessary to make a campaign against these enemies, in which he killed many, captured some twenty-two, and spread terror among the remainder. From the captives he learned that before his arrival they had plotted to annihilate the Spaniards.[11] At El Paso the presence among the Christian Mansos of the Piros, Tiguas, and other intruders from the in-

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[5] Letter of the cabildo, October 16, 1680, *Autos tocantes*, folio 98.

[6] Letter of Otermín, October 20, 1680, *ibid.*, folios 99–102.

[7] Letter of Ayeta to the Com. Gen., December 20, 1680, *Doc. Hist. Nuevo Mex.*, vol. 1, p. 564.

[8] Letter of the cabildo, October 16, 1680, *Autos tocantes*, folio 98.

[9] Letter of Otermín, October 20, 680, *ibid.*, folio 101.

[10] Letter of Fray Nicolás Hurtado, January 30, 1682, *Autos Pertenecientes*, *f.* 99 *et seq.*; *auto* of Otermín, February 11, 1682, *ibid.* f. 103.

[11] Letter of Cruzate, October 30, 1683, *Viage*, p. 4.

terior of New Mexico doubtless had much to do with the unrest of the Indians at that place.[12]

Before the actual outbreak in the spring of 1684, the Indians made several attempts to revolt. According to Cruzate, who attributed the general unrest to the flimsy nature of Indian conversions and to the Indian's innate hatred of the Spaniards and their religion, the natives made no less than five attempts to destroy the Spaniards.[13] In March, 1681, Otermín discovered what appeared to have been an abortive attempt to destroy El Paso. On the sixth of that month Alonso Shimitigua, an Isleta Indian who had retired to El Paso with the Spaniards in 1680, returned to Nuestra Señora de Guadalupe from a trip to the Pueblo region, which he had undertaken soon after settling at El Paso, for the purpose of finding out the condition of those provinces and of trying to return the apostates to the fold of the church. He reported that while in the Pueblo region he was imprisoned because of his Spanish sympathies, and that two of his companions, Baltasar and Thomás—both Isleta Indians, like himself—had told Popé, the head chief, that they had come to invite the Pueblo tribes to help the Piros and Tignas of El Paso to kill all the religious and other Spaniards; that his brother Joseph had gone to convoke the Mansos; and that the deed would have been accomplished already had not the Ysleta interpreter named Juan Moro, the Tigua governor, the Manso governor named Don Francisco, the Manso lieutenant named Don Luis, and an Emes Indian named El Muço, interfered. Popé entered into this proposal and made plans for Baltasar and Thomás to return to El Paso at the head of a Piro and Tigua band, and, with the aid of the Sumas and Mansos, to carry out the proposed massacre. But the whole scheme came to naught. Shimitigua made his escape and returned to El Paso, where he was soon followed by Baltasar and Thomás. When Otermín examined the last two Indians, they declared that they had told the story of the proposed attack on El Paso to save their lives, as their

[12] Action of the cabildo, etc., *Autos sobre los Socorros*, folio 34.

[13] Letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44–47; *Dictamen Fiscal, ibid.*, pp. 48–50.

kindred at Isleta had warned them that the apostate Indians killed all Spanish sympathizers. Baltasar and Thomás, as will appear below, were soon under suspicion again for fomenting the desire to revolt. Joseph, on examination, disclaimed all knowledge of any such plot.[14]

In July of the same year Governor Otermín discovered what appeared to be another effort at revolt. According to the information gathered by Otermín, the Piros and Tiguas were planning to kill the Spaniards and the Mansos and return to their ancient superstitions. Among the Indians implicated in the conspiracy were Sebastián Zhetooy, Francisco Guithosi, Fernando, Baltasar, and Thomás. Although the governor secured declarations from a number of Indians, the testimony of two Piros, Diego Quoiquioli and Ursula, was his chief source of information concerning the plot. From it he learned that the Indians had been in a state of unrest for some time, but that the immediate cause of the conspiracy was the work of two Tigua Indians of Isleta, Baltasar de la Cruz and Thomás the Sacristan, who had recently come from New Mexico, assembled a number of Indians in the Piro pueblo, told them of the satisfaction the Pueblo Indians were experiencing in the recovery of their freedom, and urged the Piros to throw off their subjection. When the charges against them were made known to Baltasar and Thomás, both confessed to having come from New Mexico, but denied trying to incite revolt. Upon re-examination Diego Quoiquioli modified his charges, saying he had heard from other Indians the things he reported, but Ursula maintained that she had heard and seen what she reported. Otermín then ordered the accused put to torture, under which Sebastian Zhetooy and Fernando altered their confessions. Since the collection of documents bearing on these events is both badly mutilated and incomplete, the result of the examination is left a matter of surmise. The evidence adduced, however, is sufficient to show that the Indians of the El Paso district were dissatisfied with Spanish rule and ready to return to their ancient mode of life, and that the Christian

[14] *Auto* of Otermín, March 9, 1681, MSS in Bancroft Collection.

Indians were making common cause with the heathen tribes of the neighborhood, including the ever-active Apaches.[14a]

The actual outbreak, as has been said, occurred in the spring of 1684. The discovery of the conspiracy came about in the following manner. On the night of March 14, about ten o'clock, there appeared before Cruzate two Tigua Indians, Francisco Tilagua, the Tigua governor, and Juan de Ortega, his lieutenant. Accompanying the Tiguas were two Piros, Pedro and Ventura, father and son. The latter had come to inform Cruzate of a plot to kill the Spaniards, and the former had come to act as interpreters. From these informers Cruzate learned that five Mansos had visited Pedro, asked him to join a conspiracy which was afoot, and urged him to use his influence with his people and with the Tiguas of Isleta to secure their co-operation. For the purpose of getting information, Pedro agreed to the proposal and sent his son Ventura to the meeting which the Mansos were holding that night. Upon Ventura's return from the conference, Pedro reported what had happened to the Tigua governor, at whose suggestion all four came to make known the conspiracy to Cruzate.[15]

The meeting of the conspirators was held at the house of Don Luis, the Indian governor of the Mansos. There were present all the Christian and many of the heathen Mansos, including the latter's chief, Captain Chiquito. The leading conspirators were Don Luis, governor of the Christian Mansos; Jusepillo, the Apache;[16] Juseplie, the war captain, and brother to Jusepillo; Agustinillo; Antonio, the alcalde; Francisco, the alcalde's brother; Gregorillo; and Juanillo, the war captain. At the conference several plans of attack upon the Spaniards were proposed. Some suggested setting upon the Spaniards while they

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[14a] Investigation of an alleged conspiracy of the Piro and Tigua Indians, Guadalupe del Paso, July 5–10, 1681 (Archives of Santa Fé, in Library of Congress). Examination of several Indians by Governor Otermin, July 11, 1681 (MSS in Bancroft Collection).

[15] *Carcel de Proceso*, March 16, 1684, *Autos sobre los Socorros*, folio 1.

[16] According to Jusepillo's confession in *Ibid.*, folio 2, he had been captured by the Spaniards when he was a little child and reared by Fray García de San Francisco.

were in the church hearing mass and unarmed; as these represented only a small part of the population, the Indians would attack the others in their houses at the same time. Men, women and children, priests and laymen were to share the same fate. One friar only would be spared to go afoot to Mexico to report the massacre. Other conspirators favored setting fire to the granaries of the monastery at night, as a means of bringing the whole body of inhabitants out of their houses; in the midst of the confusion they would make the attack. A third proposal, and one which seemed to meet the approval of all, was to postpone the massacre until Easter morning—"the day the God of the Spaniards ascended into the sky"—when the Spaniards were having their fiesta and were careless of danger. In the meantime, they would secure the alliance of the Piros and Tiguas, as they had already convoked the Sumas of El Ojito and of La Thoma and the Janos of La Soledad, to whom messengers had already been sent. Having agreed upon this last plan, the leaders dismissed the assemblage, at the same time urging Ventura for him and his father to win the Piros and Tiguas to the alliance.[17] Upon hearing the report of Pedro and Ventura, Cruzate sent one to the house of Captain Alonso de Aguilar and the other to the house of Juan Lucero, the sargento mayor, for the purpose of securing their accusations in legal form.

Cruzate had scarcely disposed of Pedro and Ventura before Juan Pelon, a loyal Manso Indian, came at daybreak to reveal the conspiracy. Juan reported that he had just learned of the plot the night before from a kinsman who wished to take him to the meeting. He had refused the invitation, preferring to take his wife to the convent and there die with the Spaniards. Being too distressed to sleep, he had come to tell Cruzate in time to prevent the treachery.[18]

As soon as Juan Pelon had made his report, Cruzate issued an order for the arrest of the eight Indians named by Pedro and Ventura. In order to secure the arrests without creating sus-

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[17] *Causa de Proceso*, in *Autos sobre los Socorros*, folio 1.

[18] *Ibid.*

picion, he made use of the Manso governor, Don Luis, calling each Indian separately and lodging him apart from his confederates. Don Luis was then imprisoned.[19]

Though the confessions of the eight prisoners were substantially the same as the reports of Pedro and Ventura, Cruzate secured some additional information from them that throws new light on the conspiracy. The Indians had been holding meetings and planning revolt since the time of Alcalde Mayor Andrés de Gracia, who had hanged some Mansos suspected of plotting an uprising.[20] Moreover, the Indians had held many meetings recently, the last of which was the one attended by Pedro and Ventura.[21] The fact that the Indians of New Mexico had gone unpunished seems to have encouraged the continuance of the plotting. Other causes of disaffection given were the lack of sympathy with the church; the wish to live undisturbed in their lands, and in accordance with their ancient customs; lack of knowledge of the Spanish laws; and a desire to possess themselves of the wealth of the Spaniards, which they had planned to divide among themselves, keeping the oxen to till the land. The conspirators, moreover, planned a single attack on El Paso by the combined force of Mansos, Sumas, Piros, Tiguas, and Janos, after which they would attack Janos and Casas Grandes. Several other points were elicited. The reward of the Piros and Tiguas for their disaffection was to be permission to return to New Mexico, and the penalty for non-compliance was to be death with the Spaniards. It is significant that four of the leaders were civil officers of the pueblos, and with one exception were young men whose ages ranged from twenty to thirty years.[22]

On March 17 Cruzate named Matías Lucero de Godoy as attorney for the defense. Before delivering him the papers, Cruzate had them duly sworn to and signed by the informers and the

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[19] *Cavesa de Proceso*, in *Autos sobre los Socorros*, folio 2.

[20] Confession of Joseph, *ibid.*, folios 4–5; confession of Antonio, *ibid.*, folio 4; confession of Francisco, *ibid.*, folio 5.

[21] Confessions of Gregorillo, Agustín, Joseph the Manso, Antonio the alcalde, and Luis the governor, *ibid.*, folios 2, 3, 4, and 6.

[22] Confessions of the eight prisoners, *ibid.*, folios 2–6.

prisoners. Godoy was given only six hours to prepare his plea, but on March 18 he announced his defense as complete. It was based mainly on the primitive nature of the Indians. Though the prisoners had plotted to kill, they had not killed. Having been born free, the Indians knew naught of subjection; not comprehending the error they were about to commit, they were merely striving to live in freedom and in accord with their ancient laws. Though the Spaniards had been passing through their pueblos to and from New Mexico for many years, and had even camped in their pueblos, the latter had never done them any injury; now, being Christians, if they plotted evil, it was the work of the demon, for the Indians really wished to support the church. Their innocence was patent from the ease with which they made their confessions. Therefore, being ignorant of the enormity of their treachery, they should not be punished with the rigor applicable to one capable of understanding; being as little children, they should be freed from the penalty of capital punishment. Godoy, accordingly, prayed that the death sentence be commuted to banishment or slavery, hoping that clemency would quiet the unrest among the whole body of natives and keep them obedient to the church.[23]

In spite of the defense, Cruzate pronounced the death sentence against the eight, and ordered them garotted in jail and their bodies hung up in the public place as a warning to their confederates. Moreover, he ordered the sentence executed that very night, March 18, as a means of preventing a riot.[24] About seven o'clock in the evening the sentence was read to the prisoners by the secretary, Pedro Ladrón de Guevara. Cruzate then named Maestre de Campo Alonso García to execute the sentence, and ordered him to take with him two priests to prepare the criminals for death.[25]

A short time after this charge was given to García, two priests, Fray Francisco Farfán and Fray Joseph de Espinola, accom-

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[23] *Carcsa de Proceso*, in *Autos sobre los Socorros*, folios 6-7.

[24] *Pronunciamento*, March 18, 1684, *ibid.*, folio 8.

[25] *Notificacion*, in *ibid.*, folio 8; order of execution, *ibid.*, folio 8.

panied by Alonso García and most of the citizens, appeared before Cruzate. They came to ask for a suspension of the execution, because the expedition to the Jumano country had not returned, and they feared the enraged Indians would wreak vengeance on this party, composed, as it was, of three priests—Fray Nicolás López, Fray Juan de Zavaleta, and Fray Antonio de Acevedo—and twenty-six soldiers, most of whom were married and had children. Cruzate granted their petition and suspended the execution to a more convenient time.[26]

Though the execution of the leaders was postponed, their arrest and condemnation seems to have delayed the outbreak at El Paso. But the uprising at Janos and Casas Grandes, which was planned to follow the massacre at El Paso,[27] took place in May. For chronological reasons, therefore, the story of events at those places will precede the account of subsequent events at El Paso.

2. *The Revolt at Janos and Casas Grandes.*—The declarations of Pedro and Ventura and of the eight prisoners all show that messengers had already been sent to incorporate the Janos Indians in the revolt.[28] These messengers, two Suma heathen,[29] set out on March 14,[30] but nothing further is said of their mission. The next embassy, apparently, consisted of a party of seven Indians led by Jusepillo, a Manso apostate.[31] Following this embassy, two Janos came to El Paso to confer with the Manso Christians and heathen who were already assembling at the ranchería of Captain Chiquito. Both were sent back to Janos to convoke those Indians, and one again came to El Paso to report the success of his mission. It appears to have been this last-mentioned Jano who accompanied Juan the Quivira and Diego the Lieutenant, who were the next messengers to the Janos.

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[26] Suspension of execution, *Autos sobre los Socorros*, folio 8.

[27] Confession of Gregorillo, March 15, 1684, *ibid.*, folio 3.

[28] *Ibid.*, folios 1-6.

[29] Confession of Governor Luis, *ibid.*, folio 6.

[30] Confession of Jusephe the Apache, *ibid.*, folio 2.

[31] Confession of Juan the Quivira, *ibid.*, folio 10. Juan received this information from Jusepillo and Juan Pelon.

These last two messengers played an important part in the conspiracy. Diego the Lieutenant appears to have taken the leadership of the revolt after the capture of Governor Luis.[32] Juan the Quivira was in prison at the time the eight conspirators were incarcerated, having been placed there by Cruzate, who suspected him of being an emissary of the apostate Indians of New Mexico. Through the carelessness of the Spanish guards, and with the aid of Governor Luis and the latter's sister, Juan made his escape from jail in order to go to Janos with a message from the governor. Upon Juan's return from Janos he was again imprisoned; but a second time he escaped, took part in burning the jail, sought refuge in Captain Chiquito's ranchería, and again undertook a mission, this time to New Mexico to secure the alliance of the Pueblo Indians. Becoming aware of Juan's movements, on July 14 Cruzate sent ten Tiguas in pursuit of the fugitive; they captured him and returned him to prison. Being tried on various charges, he was convicted and sentenced to hang with the eight already condemned.[33]

Immediately after Diego the Lieutenant and Juan the Quivira appeared at Janos[34]—about May 6—a massacre took place in the mission of La Soledad in which Father Beltrán, the resident priest, and the family of Antonio de Aruisa, the priest's guard, lost their lives.[35] The mission was robbed and the convent burned. Nine heathen under the leadership of a nephew of Captain Chiquito went from El Paso to Janos to assist in the massacre. The Sumas belonging to the mission of La Soledad aided the Janos also, but no Christian Indians of El Paso seem to have been implicated.[36]

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[32] Confession of Pedro, August 7, 1684, *Autos sobre los Socorros*, folios 11–12.

[33] *Auto* of Cruzate, August 1, 1684, *ibid.*, folio 8; *Auto Causa de preso*, July 15, 1684, *ibid.*, f. 10; Declaration of Juan the Quivira, *ibid.*, f. 10. For a further account of Juan's escape, see his declaration.

[34] Letter of Ramírez, April 14, 1685, *ibid.*, folio 140; *representación of López*, September 19, 1684, *Viage*, p. 89.

[35] *Auto* of Cruzate, in *Autos sobre los Socorros*, folios 8–9.

[36] Declaration of Juan the Quivira, July 15, 1684, *ibid.*, folio 10; declaration of Pedro, August 7, 1684, *ibid.*, ff. 11–12; declaration of Juan,

Encouraged by their success at Janos, the Indians threatened an attack on Casas Grandes. The alcalde of that place, Francisco Ramírez de Salazar, hurriedly petitioned Cruzate for aid. His messenger arrived at El Paso at eleven o'clock one night, bringing the news of the massacre and asking for help. Notwithstanding the threatening attitude of the Mansos and Sumas, Cruzate immediately dispatched Maestre de Campo Andrés García with a troop of thirty soldiers to the aid of Casas Grandes. Upon his arrival there García found that the Indians had intrenched themselves on a *peñol*. Their force, which was about two thousand strong, consisted of Mansos, Janos, Sumas, Jocomes, Chinaras, and other tribes. A force of forty heathen from El Paso re-enforced them,[37] but no Christian Indians of that place took part in the ensuing struggle.[38] On June 2 the combined forces of the alcalde mayor and Captain García, including some New Mexican citizens who had come from Sonora and whom García incorporated in his company, made an assault on the Indian stronghold. In the first encounter Juan de Lagos and ten Indians were killed. The hostile Indians were scattered, but their power was not broken. On the fifth, Captain Ramírez and Captain García were back at Casas Grandes, but were planning another attack on the enemy.[39]

August 7, 1684, *ibid.*, f. 12. For further reports on events at the Janos Mission see letter of the cabildo, July 6, 1684, *ibid.*, ff. 149–150; letter of the cabildo, August 18, 1684, *ibid.*, ff. 32–34; letter of Cruzate, July 25, 1684, *Expediente*, *No. 2*, pp. 44–47; letter of Cruzate, October 7, 1684, *Viage*, pp. 79–80; petition of the cabildo, October 27, 1684, *ibid.*, f. 21.

[37] Declarations of Pedro and Juan, August 7, 1684, *Autos sobre los Socorros*, folio 12.

[38] Declaration of Juan, August 7, 1684, *ibid.*, folio 12.

[39] Letter of Francisco Ramírez de Salazar, June 6, 1684, *Autos sobre los Socorros*, folio 94; declaration of Maestre de Campo Alonso García, el Padre, April 14, 1685, *ibid.*, ff. 104–5; declaration of Alonso García, el Moso, *ibid.*, f. 103; declaration of Roque Madrid, April 13, 1685, *ibid.*, f. 102; declaration of Captain Felipe Romero, April 14, 1685, *ibid.*, f. 105; declaration of Feliphe Serna, April 14, 1685, *ibid.*, f. 106; declaration of Sargento Lazaro de Arteaga y Pedrosa, *ibid.*, f. 108; certification of the cabildo, October 27, 1684, *ibid.*, f. 21; *Dictamen Fiscal*, January 22, 1685, in *Viage*, p. 82; letter of Cruzate, July 25, 1684, *Expediente* No. 2, pp. 44–47.

The disaffection among the Indians at Janos and Casas Grandes seems to have spread to the neighboring settlements. Writing on the sixth of June Captain Ramírez mentions having information of unrest in the valley of San Martín and Parral; and he says that troops had been sent to the aid of the two places, and that if all went well the troops would attack the enemy at Agua Nueba.[40] The aid to those parts appears to have been sent by Ramírez.

On the tenth of June Captain Ramírez seems to have made a second attack upon the enemy.[41] The latter were intrenched about thirty leagues from Casas Grandes in a rugged sierra called El Diablo, and had a large fighting force. With a company of twelve men assembled by Captain Ramírez, and about thirty arquebusiers contributed by Captain Juan Fernández de la Fuente of the Spanish militia, the attack was made, the Indians refusing the proffered peace. Though the Spaniards were unable to conquer the Indians, they claimed a victory, inasmuch as they were not themselves conquered. They lost one Spaniard and some friendly Indians in the fight. Captain Ramírez wished to return the next day to renew the conflict, but in a junta which the Spaniards held the majority favored waiting for a more convenient occasion; accordingly, each one returned to his own jurisdiction and home. No mention is made in this account of the troops of Captain García, who may have returned to El Paso immediately after his arrival at Casas Grandes on the fifth of June.[42]

3. *The Revolt of the Sumas.*—Though the Indian situation at Casas Grandes and in its environs was by no means settled, for the purpose of clearness the writer must turn to review the situation at other places more immediate to El Paso. The part

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[40] Letter of Francisco Ramírez de Salazar, June 6, 1684, *Autos sobre los Socorros,* folio 94.

[41] The writer is not quite certain that this attack was not confused by Captain Ramírez with the one recorded above as taking place on June 2d. The attack attributed to the tenth of June was recorded in a letter of April 14, 1685.

[42] Letter of Captain Francisco Ramírez de Salazar, April 14, 1685, *Autos sobre los Socorros,* folio 140.

played by the Suma Indians claims an important place in the narrative.

The two heathen Sumas dispatched to Janos on March 14 were also ordered to convoke the Sumas who dwelt in the missions of San Francisco de la Toma and of Santa Getrudis del Ojito.[43] The result of their mission is unknown. The next embassy to the Sumas seems to have been led by Jusepillo, a Manso apostate, and six companions. At the time Juan the Quivira made his first escape from prison, these seven Manso apostates were lodged in a little sierra in the neighborhood of Guadalupe del Paso, and their leader conferred with Juan. They were apparently about to set out to convoke the Sumas of Río Abajo. They had instructions to leave along the road certain signs to indicate that the attack would be made in two months, when the maize patches were ripe. It seems that at some earlier time they had secured the allegiance of the Sumas of Mission San Francisco de la Toma, and had incorporated them with the Manso apostates and heathen; but these Sumas, harassed by the drouth, sued for peace and were restored to the church by the guardian.[44]

The third embassy to the Sumas was led by Diego the Lieutenant. Upon his return from Janos, probably in May, he ordered the Christian Mansos to withdraw to the ranchería of Captain Chiquito,[45] and from there he and six companions set out to visit the Sumas on the lower river. He made known to the Sumas his purpose of assembling them with the Mansos, and won their allegiance to the revolt. Some offered to return with him to El Paso and there spy upon the Spaniards while Diego and his companions returned to the ranchería of Captain Chiquito to confer with the Mansos; upon Diego's return, leading the Mansos, Janos, and Sumas, they would report what they had seen. Either then or later Diego accepted this offer and returned to El Paso with a following of seventy Sumas, among whom were

[43] Declaration of the eight prisoners, March 15, 1684, *Autos sobre los Socorros*, folios 2–6.

[44] Confession of Juan the Quivira, July 15, 1684, *ibid.*, folio 10.

[45] *Auto* of Cruzate, August 1, 1684, *ibid.*, folio 9.

a number of Indians implicated in the revolt at Santa Getrudis; of this last mentioned defection a fuller account will follow below.[46] Diego sent a Suma captain and a brother of Toribio to inform the Sumas that a smoke on the river would be the signal in case the Spaniards attacked them; and, in case of attack, he ordered them to withdraw to the other side of the river.[47] According to the declaration of Joseph the Tano, Diego went to La Toma to appoint the day of attack, and those at the ranchería waited many days for his return; but he never came, and therefore they suspected that the Spaniards had hanged him.[48] The date of Diego's capture is not indicated in the documents, but he was captured at the same time Juan the Quivira, Luisillo, and Chaslixa were taken, and the four were acting at the time as messengers from Captain Chiquito's ranchería.[49]

The unconverted Sumas were implicated in the revolt, and probably took an active part. Their leaders were Tomás, Diego, his son, and El Vermejo.[50]

The revolt of the Sumas of Santa Getrudis occurred about the same time as that at La Soledad. When the Indians rose the priest was absent, but Juan de Archuleta with his wife and family fell victims to the fury of the Indians. The convent was robbed and burned. Among those implicated in the revolt were Estevanillo, Francisco, Andrés, Francisco the Captain, Juan, and Geronimillo. All of these except the last named were in the company of Diego the Lieutenant when the latter came to Guadalupe del Paso accompanied by the seventy Sumas, and they were captured by Cruzate.[51]

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[46] Declaration of a Suma heathen, August 10, 1684, *Autos sobre los Socorros*, folio 13; declaration of Juan the Manso, September 19, 1684, *ibid.*, f. 13; *Auto* of Cruzate, *ibid.*, f. 9.

[47] Confession of Pedro, August 7, 1684, *ibid.*, folios 11–12.

[48] Declaration of Joseph the Tano, November 3, 1684, *ibid.*, folio 14.

[49] *Auto* of Cruzate, *ibid.*, folios 8–9.

[50] Declaration of a Suma heathen, August 10, 1684, *ibid.*, folio 13; declaration of Juan the Manso, September 19, 1684, *ibid.*, f. 13.

[51] Letter of the cabildo, July 6, 1684, *ibid.*, ff. 149–150; *Auto* of Cruzate, August 1, 1684, *ibid.*, f. 9; letter of Cruzate, August 18, 1684, *ibid.*,

Learning of the revolt, Cruzate sent the *alférez de campaña*, Alonso García the younger with a troop of soldiers to the scene of action. Arriving there García buried the Spaniards and returned to El Paso. Cruzate sent him back a second time to punish the enemies and collect the stock that belonged to the convent.[52]

4. *The Revolt of the Mansos.*—It has already been said that the imprisonment of the leaders seemed for a time to check the plottings of the Mansos, but they soon found a new leader in Diego the Lieutenant, who ordered them to withdraw from their pueblos and join their kinsmen in Captain Chiquito's ranchería. They withdrew at night and without committing such atrocities as marked the uprisings at Janos and Santa Getrudis. The defection seems to have followed closely upon the revolt at Janos and Santa Getrudis, for on September 19, 1684, Father López speaks of the Mansos having been in revolt four months.[53]

Both Cruzate and the priests made several efforts to persuade the Mansos to return to their pueblos. At one time Cruzate sent them a letter by a loyal Manso Indian named Juan. When a Manso singer read the letter to the assembled people, they scorned the message and the messenger, and as a mark of disgust tore the paper into bits and asked Juan if he had remained behind to bear them this letter.[54]

The last messenger sent to reconcile the Mansos went during the latter part of July.[55] This time the messenger was Juan del Espíritu Santo, another loyal Christian Manso. He seems to have been sent by López and Gómez, who were thought to have some influence with the Indians. As an assurance to the apostates that he had returned from the Jumano country, and

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f. 22; letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44-47; letter of Cruzate, October 7, 1684, *Viage*, p. 79; declaration of Juan, *Autos sobre los Socorros*, f. 13.

[52] Declaration of García el Mozo, *Autos sobre los Socorros*, folio 103.

[53] Statement of López, September 19, 1684, *ibid.*, folio 89; letter of Cruzate, October 7, 1684, *Viage*, p. 79.

[54] *Auto* of Cruzate, August 1, 1684, *ibid.*, folio 8; declaration of Juan the Manso, August 7, 1684, *ibid.*, f. 12.

[55] The mission took place after López returned from the Jumano country, i.e., July 18, 1684. See statement of Mendoza, *Viage*, p. 52.

that Juan was his messenger, López sent with Juan his Jumano Indian servant. Upon Juan's arrival at the ranchería, the Indians assembled to hear the message. As four Manso Christians were absent on a raiding expedition, the apostates asked that they might delay their answer two days. At the end of that time the four had not yet returned. The Mansos, therefore, concluded that they had been captured by the Spaniards. Unsuccessful in his mission, Juan set out upon his return from the ranchería accompanied by his mother-in-law. On his way he met two Indians on horseback, who forced him to return to the ranchería with them. There he found the Mansos formed into a circle, in the middle of which was a knife buried to its hilt in the ground. They placed Juan in a corner and accused him of plotting to deliver the Mansos into the hands of the Spaniards, so the latter could behead their men and take their wives and children to Parral; but they finally asked him to return to El Paso, find out whether the four raiders had been captured, and bring back the information.

Juan again set out for El Paso. This time he met Cruzate coming, accompanied by Father Guerra and Captain Madrid, who led a squad of thirty-six soldiers and some friendly Indians. Cruzate sent Juan back to the ranchería to announce his coming, giving him his rosary as a token that he came in peace. When Juan again reached the Indian encampment, he found that spies had already carried the news of Cruzate's coming. The men had transported the women and children to the other side of the river for safety, and had armed themselves, ready to meet an attack. When Cruzate reached the scene of action, he left the soldiers at a distance and approached the Indians, accompanied by Father Guerra. Just as he was about to dismount, Juan warned him that the natives intended to set upon him and the priest as soon as they had dismounted and to kill them, after which they would attack the soldiers. Seeing that Cruzate and Guerra hesitated to dismount, the rebels attacked at once with their bows and arrows. But the Spaniards were on the alert and the troops of Captain Madrid returned the volley with their arquebuses, seat-

tering the natives, who fled toward the river. Cruzate then set fire to the ranchería and returned to El Paso.[56]

As the Indians had attacked the Spaniards while the latter were engaged upon a friendly mission, on Cruzate's return to El Paso he declared war on the Mansos and their allies, and determined to execute the death sentence on the imprisoned leaders. He ordered Maestre de Campo Alonso García to execute the sentence, and commanded Captain Madrid to guard him with a squad of soldiers during the execution. On August 5, about three o'clock in the afternoon, the eight leaders first captured, together with Juan the Quivira and Diego the Lieutenant, who had been captured and condemned during July, were led forth to the public gallows and executed. The bodies were left hanging in the public place as a warning to all evil-doers.[57]

While the execution of the ringleaders may have thrown the allies into temporary confusion, it did not check the conspiracy; increased activity to make the revolt more far-reaching and all-inclusive went on apace. Efforts to incorporate the apostates of interior New Mexico were renewed, when the Mansos caught two Tigua Indians of Isleta, Lucas and Salvador, while the latter were fleeing toward New Mexico with some mares which they had stolen from their guardian. Upon being examined the Tiguas asserted that they were sent to New Mexico by two captains, Umpiquire and Pesoñi, to bring the apostates of the interior to help kill the Spaniards and priests. They said further that the Indians of Isleta wished to go to New Mexico because, as their governor, Juan Moro, had told them, the Spaniards were talking of taking them toward Mexico. This story fitting in with the wishes of

[56] Declaration of Juan del Espíritu Santo, *Autos sobre los Socorros*, folios 9–10; *auto* of Cruzate, *ibid.*, f. 9; declaration of Joseph the Tano, *ibid.*, f. 14; declaration of Roque Madrid, *ibid.*, ff. 100–101; letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44–47; *Dictamen Fiscal*, *ibid.*, pp. 48–50; letter of the cabildo, August 18, 1684, *Autos sobre los Socorros*, folio 33; letter of the cabildo, October 27, 1684, *ibid.*, ff. 20–21; letter of Cruzate, October 7, 1684, *Viage*, p. 80; letter of the cabildo, August 23, 1685, *Autos sobre los Socorros*, f. 135; *Dictamen Fiscal*, January 22, 1685, *Viage*, p. 82.

[57] *Auto* of Cruzate, August 1, 1684, *Autos sobre los Socorros*, folios 8–9; command for execution, *ibid.*, f. 11; testimony of execution, August 5, 1684, *ibid.*, f. 11.

the Mansos, they made friends with the two Tiguas, returned their bows and arrows, and urged them to bring the natives of New Mexico back with them; the Mansos promised to be in San Diego when the Tiguas returned. The flight of the Tiguas took place between the latter part of July and August 18. One of the youths, Lucas, returned to El Paso in the following February as a peace messenger from the interior Indians. The morning after his arrival Juan Moro, his governor, took him to Cruzate. In the declaration which he made on February 12 he said that he told the story to the Mansos to save his life.[58]

About the time when Juan del Espíritu Santo went upon his peace mission to Captain Chiquito's ranchería, Cruzate received information that four Manso Christians—doubtless the four mentioned by the apostates to Juan as having set out upon a raiding expedition—had come from Captain Chiquito's ranchería and secretly entered the house of a Manso in Pueblo del Paso. Accordingly Cruzate ordered them captured, and sent a scouting party to examine the tracks and find out whether the four had been accompanied by others. When the scouting party returned, they reported that there were only four Indians, but that the latter had destroyed the maize patch of a friendly Piro. From two of the four,[59] Pedro and Juan,[60] Cruzate secured a confession which showed that the apostates were still plotting the destruction of the Spaniards. They treated of coming to El Paso on a dark night and setting fire to the convents in all parts where there was timber; then dividing in groups, which were already named, they would attack the Spaniards in their houses and kill all, including the governor and priests. Joseph the Tano proposed

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[58] Declaration of Joseph the Tano, November 3, 1684, *Autos sobre los Socorros*, folio 14; *Auto* of Cruzate, February 12, 1685, *ibid.*, f. 96; declaration of Lucas, February 12, 1685, *ibid.*, f. 96; letter of the cabildo, August 18, 1684, *ibid.*, f. 33.

[59] Two of the four raiders were left at Captain Chiquito's ranchería when Cruzate went there; this fact indicates that the capture was effected about the time Cruzate went on that expedition. See *Auto y Causa de Preso*, August 7, 1684, *Autos sobre los Socorros*, folio 11.

[60] Juan was the messenger sent by Cruzate to the apostates with the letter. See confession of Juan, August 7, 1684, *Autos sobre los Socorros*, folio 12.

dressing himself as a Spaniard and going ahead of the others in order to mount to the roof of the church and discharge at the Spaniards the cannon kept there.[61]

How extensive were the campaigns against the enemy during the month of August is not clear from the documents. There was some skirmishing near Los Sauces between the enemy and a party escorting Cruzate's messenger to the City of Mexico, in which one Spaniard was wounded.[62] It is probable, too, that during this month the Spaniards made some attempts to punish the Apaches; of this a fuller account will appear in the paragraphs devoted to the Apaches.

On September 19 Cruzate secured a declaration from another captive Manso named Juan, and learned that the Mansos were assembled at the Suma ranchería on the lower river and were still plotting the destruction of El Paso. The plan now formulated was for the men to set out from the ranchería and lodge the first night at a place called El Ancón de Ximenes; from there they would pass to a little sierra near the pueblo of El Paso; and from the sierra they would make the attack on a dark night "when the moon was in the middle of the sky." While some of the men were killing the Spaniards and burning the buildings, others would visit the maize patches and carry away the corn to the sierra. They still wished to leave one friar alive to carry the news to Mexico City. The new feature in this plan was the scheme to seize Cruzate alive, have the women kill him, and then cut off his head and place it on a high pole facing the pueblo, in the manner Cruzate had dealt with their leaders. The time of the attack was close at hand, for the Indians were busy making mescal and grinding mesquite beans for the journey. Juan said that he had never seen so many people assembled.[63]

Cruzate immediately took measures to break up the assembly on the lower part of the river and to prevent the massacre.

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[61] Confession of Pedro, August 7, 1684. *Autos sobre los Socorros*, folios 11–12; confession of Juan, August 7, 1684, *ibid.*, f. 12.

[62] Letter of Fr. Joseph Ximenes, August 10, 1684, *ibid.*, folio 46.

[63] Declaration of Juan, a Manso Christian, September 19, 1684, *ibid.*, folio 13.

Ordering out Captain Madrid with a force of seventy soldiers and about one hundred friendly Indians, he led these troops in search of the rebels, captured and killed their spies and broke up the meeting. The Indians fled for many leagues, leaving Cruzate to burn their rancherías and overrun their lands. It was reported that ten nations were represented in this assemblage.[64]

About the time that these events were happening, Francisco Ramírez de Salazar, alcalde of Casas Grandes, appeared at El Paso. Having left Casas Grandes on August 17 in company with Captain Fuente, Ramírez had followed the trail of the enemy as far as El Paso, and knowing the Mansos to be in revolt he stopped at El Paso for news of the enemy. Cruzate had a company of soldiers out in search of the Indians at the time Ramírez arrived. In a few days this party returned, bringing news of the route taken by the Mansos. Supposing that the Indians were on the way to Casas Grandes to join forces with those sought by Ramírez, he contributed a company of fifty soldiers and some Indians under Captain Madrid to follow the Indians and prevent the union. Though the combined forces of Ramírez, Fuente and Madrid followed the tracks of the Indians four days, they failed to find them. At length, when the soldiers were lodged about fifty leagues from Casas Grandes, news came that the Indians had separated and returned to their respective rancherías by different routes, and that they had attacked Casas Grandes. As the later events connected with this campaign belong to the revolt of Casas Grandes, they will be told below in connection with the uprising at that place.[65]

And still the war of the Mansos dragged on, into the month of November. From a Tano Indian named Joseph, whom Captain Madrid captured while the latter was returning from a cam-

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[64] Order of Cruzate, September 19, 1684, *Autos sobre los Socorros*, folio 14; letter of Cruzate, October 7, 1684, *Vinge*, p. 79; *Dictamen Fiscal*, January 22, 1685, *ibid.*, p. 82; declaration of Alonso García el Padre, April 14, 1685, *Autos sobre los Socorros*, folio 105; declaration of Roque Madrid, April 13, 1685, *ibid.*, f. 100; letter of the cabildo, August 23, 1685, *ibid.*, f. 135; declaration of Juan, September 19, 1684, *ibid.*, f. 13.

[65] Statement of Ramírez, June 1, 1685, *Autos sobre los Socorros*, folio 130; letter of Ramírez, April 14, 1685, *ibid.*, f. 140.

paign in Casas Grandes. Cruzate secured a declaration on November 3. This confession throws new light on the causes of the revolt. According to Joseph's testimony, two of the chief instigators of the revolt were Agustín, the war captain, and his brother, Jusepillo. They and their kindred hated the Spaniards, because when Agustín and Jusepillo were little children Andrés de Gracia had hanged their father for stealing cattle and horses; since that time they had cherished the idea of revenge, and now that they were men they sought to get it. Joseph also declared that the Manso Christians and heathen were in a state of discord, particularly the Christians and their women, who said it was not "a good life to go fleeing," and that it was better to remain with the Spaniards.[66] Juan, whose testimony was taken on September 19, reported that there was discord between the Sumas and Mansos, the former claiming that the Sumas were responsible for their revolt, and had made use of deception to secure their alliance. Juan also said that the Sumas had tried to kill the Mansos, himself among the rest, for which reason he had returned to El Paso.[67]

Though discontent was spreading through the ranks of the rebels, it must not be supposed that their power was yet broken. In the latter part of November Cruzate undertook to send some dispatches to Mexico City by Captain Diego de Luna and Alférez Hidalgo. To guard these messengers he sent Sargento Mayor Luis Granillo with a squad of ten men. At Los Patitos the party, which numbered twenty-five, was attacked during the night by a multitude of enemies, and seven of their number wounded. It was necessary for them to return to El Paso for aid. Cruzate set out in person with seventy men under Captain Madrid, and scoured the country; he overran the rancherías of the enemy, attacked them, killed some, and imprisoned their wives and children. Those who escaped fell into the hands of

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[66] Declaration of Joseph the Tano, November 3, 1684, *Autos sobre los Socorros*, folios 14-15.

[67] Declaration of Juan, September 19, 1684, *ibid.*, folio 13.

Francisco Ramírez of Casas Grandes, who was also out campaigning.[68] The messengers were sent on their way in safety.

While the expeditions recorded above seem to have been the chief attempts to subdue the enemy, other minor campaigns were made. Roque Madrid and Alonso García, the elder, both mention having set forth on four or five other occasions in pursuit of the enemy.[69] On one occasion Maestre de Campo Alonso García was sent out with a troop to capture some fugitives; and on another occasion, probably in the spring or early summer, Captain Madrid was sent out with some soldiers to convoy the alms sent by the superiors to the priests at El Paso.[70]

5. *Continued Hostility at Casas Grandes.*—The punishment inflicted in June on the Indians of the region around Casas Grandes proved to be but temporary in its effects. Unable to cope successfully with the situation, Captain Ramírez applied to his governor for aid; but it was not until August 8 that Governor Neira y Quiroga wrote, informing Ramírez that the nations near Parral were in revolt, and that he could spare no troops for Casas Grandes. Accordingly Captain Ramírez sought aid in Sonora, where he secured a company of soldiers and friendly Indians under the leadership of Captain Fuente.[71] With these he set out from Casas Grandes on August 17[72] in search of the enemy, following their tracks from sierra to sierra for days without overtaking them. Finding himself in the neighborhood of El Paso, presumably in the latter part of September, he went to that place to secure information. It has already been told how Cruzate gave him a company of fifty soldiers and some

[68] Letter of Cruzate, November 30, 1684, *Autos sobre los Socorros*, folio 1; declaration of Captain Madrid, April 13, 1685, *ibid.*, f. 100; declaration of Captain Feliphe Romero, April 14, 1685, *ibid.*, f. 106; letter of Cruzate, April 30, 1685, *ibid.*, f. 109; letter of the cabildo, August 23, 1685, *ibid.*, f. 135.

[69] Declaration of Roque Madrid, April 13, 1685, *Autos sobre los Socorros*, folio 102; declaration of Alonso García el Padre, April 14, 1685, *ibid.*, f. 105.

[70] Declaration of Alonso García el Padre, April 14, 1685 *Autos sobre los Socorros*, folio 104; declaration of Roque Madrid, April 13, 1685, *ibid.*, f. 100; letter of Cruzate, July 25, 1684, *Expediente No. 2*, p. 47.

[71] Letter of Ramírez, April 14, 1685, *Autos sobre los Socorros*, folio 140.

[72] Certification of Captain Ramírez, June 1, 1685, *ibid.*, folio 130.

friendly Indians under Captain Madrid to follow the Mansos, who were suspected of having assembled themselves with the Janos. The exact date of the departure of the troops is unknown, but it was probably about the twentieth of September. The second day out three Apaches were captured, one of whom was sent to secure peace with his people and their alliance against the Mansos. On the third or fourth day an Indian named Jusephe—doubtless Jusephe the Tano—was captured, from whom it was learned that the Mansos might be overtaken in three days of rapid marching. Because of fatigue and lack of provisions, however, the leaders determined not to continue the pursuit, but to apply for provisions at Casas Grandes.

The messengers sent to Casas Grandes returned in great haste, bringing only two sacks of green corn but bearing letters from Captain Andrés López de Gracia and Father Álvarez, telling of an attack on Casas Grandes and the urgent need of help. It seems that the Indians had followed the movements of Captain Ramírez and that when they deemed him farthest away from Casas Grandes they had separated and returned by devious ways to make the attack on Casas Grandes on September 15. While the Spaniards succeeded in protecting themselves in the convent, the Indians burned all the houses and the stores of maize and wheat, and drove off a herd of horses and mules and about seven hundred small stock. In the encounter, which lasted from eleven o'clock at night until two o'clock the next afternoon (the fifteenth), many Indians were killed but no Spaniards. Having perpetrated all the damage they could, the savages withdrew to fortify themselves in a sierra five leagues away.

Immediately upon receipt of this information Ramírez, Fuente, and Madrid hastened with their troops to succor Casas Grandes. Arriving there on September 28, they sent out spies to reconnoiter the enemy; these soon returned with news of the enemy's retreat. On the thirtieth the combined forces, including a company of eighteen soldiers and thirty Indians who had come from Sinaloa, reached the mouth of the cañon leading to the stronghold of the Indians. As Captain Ramírez thought the attack should be made from another point, sixty men and some

Piros were led astray, but the main body of troops under Fuente and Madrid proceeded up the cañon on foot. A hard-fought battle followed, which lasted from sunrise to sunset. When the Spaniards withdrew at nightfall they found they had lost neither Spanish soldier nor Indian, but twenty-six or twenty-seven of their men were wounded, among the wounded being Captain Madrid, eleven of his soldiers and four Piro and Tigua Indians. Captain Madrid had led the assault.

In a junta de guerra held after the battle the leaders determined to seek re-enforcements before making a second assault on the enemy. Captain Fuente sent to the valley of Namiquipa in Sonora to ask aid of Sargento Mayor Diego de Quiros, who had gone there to aid that valley, and went in person to the first *partido* of Sonora to enlist two hundred friendly Indians. Captain Madrid sent to El Paso to ask Cruzate for one hundred Piro and Tigua Indians, and for munitions and provisions.[73] In response to these calls for aid, which were answered within fifteen days, El Paso and Sonora contributed enough soldiers and Indians to enable Ramírez to make the attack about the middle of October. This time the Indians, who had been re-enforced, were intrenched eight leagues beyond the site of the first battle, in an extremely rugged sierra. Again the battle lasted all day and was fiercely fought. The Spaniards gained a signal victory, killing many of the warriors and taking prisoners their wives and children. Those who escaped fled from the sierra, leaving their booty behind; horses, mules, small stock, and the goods stolen from the missions at Janos and Casas Grandes were thereby restored to their owners. The punishment inflicted on the enemy was so drastic that many were ready to sue for peace.[74]

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[73] Letter of Madrid to Cruzate, October 3, 1684, *Autos sobre los Socorros*, folio 43; letter of Ramírez to Cruzate, October 3, 1684, *ibid.*, f. 45; letter of Fuente to Cruzate, October 3, 1684, *ibid.*, f. 48.

[74] Certification of Ramírez and Fuente, October 20, 1684, *Autos sobre los Socorros*, folio 95; action of the cabildo, October 27, 1684, *ibid.*, f. 21; letter of Ramírez, April 14, 1685, *ibid.*, f. 140; declaration of Captain Madrid, April 13, 1685, *ibid.*, ff. 101–102; declaration of Alonso García el Moso, April 13, 1685, *ibid.*, f. 103; declaration of Felipe Romero, April 14, 1685, *ibid.*, f. 106; declaration of Feliphe Serna, April 14, 1685, *ibid.*, f. 106; declaration of S. Lasaro de Arteaga y Pedrossa, April 14, 1685, *ibid.*, f. 108; letter of Cruzate, November 16, 1684, *ibid.*, f. 29.

The Indians around Casas Grandes seem to have been comparatively quiet during the month of November, but in December they were active again. On the first of that month Ramírez received a letter from Sargento Mayor Diego de Quiros, a miner of Real de San Juan de la Concepción, advising him of a powerful junta at El Ojo Caliente, estancia of Captain Domingo de la Presa. Ramírez immediately departed for that place. With twelve men of his own, eight herdsmen of the estancia and more than a hundred friendly Indians, he attacked the enemy on December 11. About two thousand were assembled on a plain, but the Spaniards attacked them with great vigor and gained a decisive victory. The Indians sued for peace. Ramírez granted it on condition that they should return to their pueblos and rancherías within fifteen days.[75]

6. *The Julimes and the Apaches.*—The revolt extended to the eastward as far as La Junta de los Ríos. The tribes between La Junta and El Paso, along the Río del Norte, were already in revolt when Father López returned from La Junta in June; but the tribes of Río de Conchos and Río del Sacramento, by which route López had made his return, were dwelling peacefully in their pueblos and rancherías. During the summer, however, the Conchos, Julimes and other tribes of this region became involved in the general uprising. The defection of the Julimes at La Junta seems to have been caused by the execution of a number of their tribe at Parral, where eighteen Indians were sentenced to death for inciting revolt. It is significant that the Christian Indians of La Junta remained faithful, and took their priests, Fathers Zavaleta and Acevedo, to Parral, where they also carried the sacred vessels and ornaments of their churches for safe keeping.[76]

The Apaches, enemies of both Spaniards and the other Indian tribes, were not slow to make temporary cause with the Indians of the revolt and to use every opportunity to make a successful

[75] Letter of Ramírez, April 14, 1685, *Autos sobre los Socorros*, folio 140.

[76] Representation of López, about June 7, 1685, *Viage*, p. 64; *Auto* of the religious, September 19, 1684, *ibid.*, pp. 91-92; letter of Crazate, November 30, 1684, *Autos sobre los Socorros*, f. 1.

attack on the Spaniards. Nor was this surprising, for soon after Cruzate's arrival at El Paso, in 1683, he had dealt them a severe blow, overrunning their rancherías, capturing some of their people and killing many others.[77] At another time Cruzate had sent Felipe Serna with a troop of soldiers and Christian Indians to war on the Apaches. Serna overran their territories as far as El Cerro Agujerado.[78] On August 16, 1684,[79] Cruzate sent Captain Madrid with fifty soldiers and one hundred and seventy Indians to destroy a ranchería of apostate and gentile Apache, kill the men, and capture the women; although Madrid visited all the places where they were accustomed to place their rancherías, he failed to find them.[80] It has already been told how Captains Madrid, Ramírez, and Fuente, overrunning their land, captured three of their people, sending one to offer terms of peace with the Apache nation.[81]

7. *Peace Negotiations.*—While the year 1685 did not completely restore peace to the worn-out Spanish settlers, the land was comparatively quiet, and the Spanish leaders were chiefly concerned with making peace with the apostates. It has already been told how the Sumas of Mission San Francisco de la Toma, harassed by hunger, sued for peace before July 15, 1684, and were restored to the church by the guardian of Guadalupe.[82] In September unsuccessful efforts were made to effect a peace with the heathen Sumas. On the fifteenth of that month Cruzate sent a Suma captive, whom he had captured about August 10, to tell Tomás, Don Diego, Vermejo and other Suma chiefs that they would be well received should they come to ask for peace. Cruzate provided this messenger with food, and sent Maestre

[77] Letter of Cruzate, October 30, 1683, *Viage*, p. 4; declaration of Roque Madrid, April 13, 1685, *Autos sobre los Socorros*, folio 100; declaration of the soldiers of the presidio, November 15, 1684, *ibid.*, f. 18.

[78] Declaration of Feliphe Serna, April 14, 1685, *Autos sobre los Socorros*, folio 106.

[79] Bancroft, *Arizona and New Mexico*, p. 193.

[80] Declaration of Madrid, April 13, 1685, *Autos sobre los Socorros*, folio 101; Bancroft, *Arizona and New Mexico*, p. 193.

[81] Letter of Madrid, October 3, 1684, *Autos sobre los Socorros*, folio 43; letter of Ramírez, April 14, 1685, *ibid.*, f. 140.

[82] Declaration of Juan the Quivira, July 15, 1684, *Autos sobre los Socorros*, folio 10.

de Campo Alonso García with a squad of soldiers to conduct him safely through the lands occupied by the apostates. According to the confession of a Manso captive who was present when this messenger reached the ranchería of the heathen Indians, and from whom Cruzate received a statement on September 19, when the Suma had delivered his message he proceeded to abuse the Spaniards. But, though this mission failed, discontent was rife among the Sumas and Mansos, as the confessions of Juan and Joseph the Tano, given above, show.[83]

In March, 1685, however, most of the Sumas and Conchos returned to obedience. The captains of these nations made known to Cruzate their wish for peace, saying that their people were greatly harassed by the war, and had neither a place to conceal themselves from the Spaniards nor a place to get food. Knowing that Father Salvador de San Antonio was then on his way from Casas Grandes to El Paso, Cruzate sent Captain Madrid with six men to meet him and tell him to grant the offered peace. The Indians likewise, having notice of Cruzate's plans, went to meet the priest and made submission, surrendering their leaders and a little Spanish captive.[84]

The peace made in December between Ramírez and the Indians of El Ojo Caliente was not fulfilled, the Indians going to Sonora. There in January or February some of them, a few Mansos among them, descended to a frontier post and asked peace of Captain Alonso Pérez Granillo. Though the Indians did not belong to his jurisdiction, Granillo granted it. It proved, however, of short duration, for they soon made three attacks on a pueblo and *visita* of the district of Santa María, carried off a drove of horses, and took refuge in a sierra.[85] About the same time that these events occurred, Ramírez reported that the Indians in the region of Parral had already returned to obedience.[86]

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[83] *Auto* of Cruzate, September 15, 1684, *Autos sobre los Socorros*, folio 13; declaration of Juan, September 19, 1684, *ibid.*, f. 13; declaration of Joseph, November 3, 1684, *ibid.*, ff. 14–15.

[84] Letter of Cruzate, April 30, 1685, *ibid.*, folio 109; letter of Father Salvador de San Antonio, April 25, 1685, folio 138.

[85] Letter of Ramírez, April 14, 1685, *ibid.*, folio 140; letter of Cruzate, April 30, 1685, *ibid.*, f. 109.

[86] Letter of Ramírez, April 14, 1685, *ibid.*, folio 140.

In letters of August 12 and 26, 1685, Cruzate informed the viceroy that the Manso apostates and heathen had asked peace with a great show of submission and with promises to mend their ways. Aware of their treachery, Cruzate told the viceroy that he would need to exercise great prudence in granting the peace. His fears proved well grounded, for some of the Mansos returned to apostasy.[87] Quiet was not restored until 1686.[88] When it is remembered that the revolt comprehended ten nations—the Mansos, Sumas, Janos, Julimes, Conchos, Apaches, Jocomes, Chinaras, Salineros, and Dientes Negros—and that the means of the Spaniards for suppressing a revolt were limited indeed, it should not be a matter of surprise that the Spaniards were so slow in quelling the disturbance.[89]

8. *Results of the Revolt.*—Conditions within the area of revolt can better be imagined than described. Shut in on all sides by the enemy, with most of the citizens as well as the regular soldiers almost continuously on campaign, the people of El Paso were soon suffering from the need of food and clothing. Because of the drought, the limited means for irrigation, and the depredations of the Indians, few crops were harvested in 1684—not enough, indeed, to last six months, according to the report of the religious in September. According to the account given by López, who left El Paso for Mexico City during the autumn of 1684, food was so scarce that many resorted to wild herbs for food, and many would not go to mass because of not having sufficient clothing to hide their nakedness. That López did not overstate conditions is evident from a few examples taken at random from a muster roll of the citizens made November 11, 1684:

Family of Captain Joseph Tellez Xiron, which is composed of ten persons. It has neither provisions nor a maize patch; being asked why, he [Joseph Tellez Xiron] said it had dried up through lack of water, as is true;

[87] Letter of Cruzate, August 26, 1685, *Autos sobre los Socorros*, folio 123; petition of the cabildo, September 27, 1685, *ibid.*, f. 146; letter of Cruzate, August 12, 1685, *ibid.*, f. 143.

[88] Escalante, *Carta de 1778*, in *Land of Sunshine*, vol. 12, p. 311.

[89] Letter of Francisco Ramírez, April 14, 1685, *Autos sobre los Socorros*, folio 140; declaration of Roque Madrid, April 13, 1685, *ibid.*, folio 100.

clothing, very indecent; almost naked. The said [Captain] has two saddle horses, an arquebus, sword, and dagger." . . . . "Family of Domingo Lujan, which is composed of eight persons. He planted a maize patch, from which he reaped twenty *fanegas* of maize. Clothing somewhat decent. He has six saddle horses, an arquebus, and sword." . . . . "Family of Apolinar Martin, which is composed of ten persons; poor and in extreme necessity.[90]

The conditions described in the muster roll prevailed, notwithstanding the efforts of the religious and the governor to supply the needy with food brought from Casas Grandes and other places, for the roads were closed by the rebels and supplies were brought at great risk.[91] The situation grew so extreme and aid from Mexico was so tardy that in the spring of 1685, probably in March, another religious named Fray Francisco Farfán was sent to Mexico City to add the weight of his petition to that of Fray Nicolás López, whose mission so far was fruitless. Every letter or communication to the superior government detailed conditions and begged for aid, without avail. Another season of drought followed with shortage of crops. New petitions poured in to the superior government. At length, in November, a grant of two thousand five hundred pesos was set aside to relieve the immediate needs of the citizens.[92]

Conditions at Casas Grandes were similar to those at El Paso. The people were confined to the convent at Casas Grandes, where

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[90] Muster roll, November 11, 1684, *Autos sobre los Socorros*, folio 50; opinion of the religious, September 19, 1684, *ibid.*, f. 78; representation of López, about June 7, 1685, *ibid.*, f. 86. See also a letter of the cabildo, July 6, 1684, *ibid.*, f. 142; letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44–47; letter of the cabildo, August 18, 1684, *ibid.*, f. 33; petition of the cabildo, September 30, 1684, *ibid.*, f. 40.

[91] Letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44–47; opinion of the religious, September 19, 1684, *Autos sobre los Socorros*, folios 77–78; representation of López, *ibid.*, ff. 84–89.

[92] Letter of Fray Salvador de San Antonio, April 25, 1685, *Autos sobre los Socorros*, folios 138–9; letter of Cruzate, April 30, 1685, *ibid.*, f. 110; letter of Cruzate, May 1, 1685, *ibid.*, f. 112; *Dictamen Fiscal*, July 27, 1685, *ibid.*, ff. 109–112; letter of Cruzate, August 12, 1685, *ibid.*, f. 143; action of the cabildo, August 23, 1685, *ibid.*, ff. 124–5; action of the cabildo, September 27, 1685, *ibid.*, f. 145; *Dictamen Fiscal*, November 27, 1685, *ibid.*, f. 144; action of the junta general, November 28, 1685, *ibid.*, f. 160.

they had gone for safety when the outbreak of September occurred, for, notwithstanding their entreaties to be allowed to abandon the place, the governor ordered them to remain there. In December Ramírez found the need of food and clothing so great and the need of soldiers to aid the people, who were now worn out from incessant guard duty, so pressing that he went in person to make a report to his governor at Parral. In response to this appeal the governor promised Ramírez aid and protection until he could hear from the viceroy; and at the same time he offered lands and cattle for breeding purposes to the refugees from New Mexico who were found scattered in the vicinity of Casas Grandes and Sonora, if these refugees would settle at Janos. These offers were doubtless of little service to Casas Grandes, for the refugees took no heed of the offers of land and stock, and the citizens in and about Casas Grandes continued to seek refuge elsewhere, driven to do so by the constant hostility of the Indians, who seem at this time to have harassed the regions of Casas Grandes and Sonora even more than El Paso. Ramírez was impelled by the disastrous condition of the place to address a memorial to the viceroy, in which he recounted the events of the revolt and the losses sustained by the citizens.

According to Ramírez's report, dated April 14, 1685, more than two thousand horses and mules and two thousand small stock, including the breeding stock of both that place and Sonora, had been driven away by the Indians. Moreover, a great number of cattle had been stolen by the Indians for food. Three silver smelters and much other property belonging to Ramírez were burned or destroyed. The Indians had already destroyed the churches and pueblos at Janos and Carretas, and had profaned and destroyed the sacred objects in the churches. Ramírez made a plea for the viceroy to send aid to protect the missions at Casas Grandes, Santa Ana del Torreón, San Pedro, and Santa María Nativitas.[93]

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[93] Letter of Francisco Ramírez, April 14, 1685, *Autos sobre los Socorros*, folios 140–142.

A fuller conception of the extent of the damage done in the area of revolt may be gathered from the following description given by Father López:

In Vizcaya there were depopulated the pueblo of Carretas; the mission of San Xaviel; the pueblo of Casas Grandes burned, more than three thousand small stock and more than one thousand beasts, horses, and mules being carried away; the mission of Torreon; the pueblo of San Antonio of Julimes; the pueblo of San Francisco of Conchos; the pueblo of San Pedro of Conchos; the pueblo of Nombre de Dios; the pueblo of San Geronimo; all these being administrations of the fathers of Zacatecas. In addition to these there were injured or destroyed the silver smelter and the hacienda El Ojo de Ramos belonging to Captain Francisco Ramirez; the hacienda of San Lorenso belonging to Captain Domingo de la Presa, with more than thirty thousand beef cattle; the hacienda of Tabalaopa belonging to the said captain [Domingo de la Presa] and composed of another six thousand head of cattle; the hacienda of Las Bocsinillas; the hacienda belonging to Captain Falcon—all there with a number of beeves and horses which the hostile Indians carried away. Many places in the valleys of the Encinillas and Rio del Sacramento settled by Spaniards were deserted. Murders and depredations on property were perpetrated as far as the presidio of Cerro Gordo. In less time than a year and a half six thousand beasts, [horses apparently], were carried away from Parral and its vicinity, to the detriment of both citizens and miners.[94]

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[94] Representation of López, in *Viage*, pp. 64*b*-65.

VI. THE CONSOLIDATION OF THE SETTLEMENTS IN 1684

1. *The Removal of the Presidio.*—The exigencies of the Indian war just described made more compact settlement at El Paso imperative. Cruzate, therefore, selected the site of Guadalupe, the point nearest the ford, as the strategic point to hold. There he moved the presidio and near there he established the Spanish and Indian settlers, who had been distributed at various points along the river. It will be remembered that in 1683 Cruzate placed the presidio about seven leagues from the pueblo of El Paso and midway between that place and San Lorenzo, which was about twelve leagues below El Paso. From that location the presidio was removed to Guadalupe del Paso sometime previous to July 6, 1684.[1] There it probably remained, for when Rivera made his *visita* in 1728 he listed the presidio "Passo del Rio," along with the presidios of Conchos and Janos, in Nueva Vizcaya, from which it may be surmised that it still stood on the south bank of the river.[2] A muster made November 14, 1684, probably just after Captain Madrid's return from Casas Grandes, showed the full quota of men present. The name of each soldier, his arms, munitions, and horses or mules, were given; and each muster was signed by the soldier and certified by the governor.[3]

Previous to the removal of the presidio to Guadalupe del Paso, Cruzate had probably done nothing toward building the *casas reales* for lodging the soldiers and civil officers, as these

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[1] Letter of the cabildo, July 6, 1684, *Autos sobre los Socorros*, folio 149; certification of the cabildo, October 27, 1684, *ibid.*, f. 20; certification of the officers of the Presidio, November 15, 1684, *ibid.*, f. 18.

[2] *Proyecto y vissita de Presidios hecha el año de 1728 pr el Brigadier D. Pedro Rivera*, in *Provincias Internas 29, Archivo General 300. Numero 1*; see also Menchero, *Informe*, in *Doc. Hist. N. Mex.*, vol. 2, pp. 746-749.

[3] Muster of the Presidio del San Joseph, November 14, 1684, *Autos sobre los Socorros*, folio 24.

buildings appear to have been constructed after the change was made. Though they were in an unfinished state on August 18, 1685, they were sufficiently well under way to enable the cabildo to give a fairly clear description of them. The cabildo wrote:

> And his lordship bought of the Mansos Indians the site in this pueblo on which now his lordship has built some *casas reales* for the dwelling-place of the governors. These [buildings] have a reception room, an apartment which serves as a secretary's office, another capacious apartment in which he is lodged, a cellar underground for the munitions of powder and balls, another apartment for a sleeping room, and two kitchens with their yard, and a pantry—all the aforesaid was built of adobe. Likewise his lordship has bought of the Mansos Indians three other houses adjoining the said *casas reales*. The one in which he has the guard-room, and which also serves as a jail, has two rooms; the other two adjoining it have, the one, two rooms, and the other, three rooms. Another house, which he likewise bought of the said Mansos, and which is beside the *casas reales*, has three small rooms. The wars and numerous expeditions upon which the governor and captain-general have set out have not given him an opportunity to finish the building.[4]

On August 26, 1685, Cruzate wrote to the viceroy saying that he was sending with his letter evidence that he had erected certain buildings, in compliance with the instructions given him, but that he had been unable to finish them because of the revolt; that he also submitted to the Tribunal of Accounts a statement of his expenditures for the buildings. He mentioned having bought the site and three adjoining buildings from the Mansos.[5]

The location of the *casas reales* is indicated in the description of the settlements at El Paso given by a resident of that place on September 1, 1773. He says: "The most of this situation is found in the plain and floodlands of the river (*plan y caja del río*) [and] on the hills which form its margin; and only the church and the *casas reales* are found situated on a hill which forms the margin of said floodlands."[6]

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[4] Certification of the cabildo, August 26, 1685, *Autos sobre los Socorros*, folio 128.

[5] Letter of Cruzate, August 26, 1685, *Autos sobre los Socorros*, folio 122.

[6] *Descripción*, etc., in *Doc. para la Hist. de Nuevo Mexico*, Tomo II, pp. 1076–1090. Bancroft collection.

At the time of the outbreak of the Indian war, the equipment of the presidio in men and military stores appeared inadequate to conduct the war with credit and to preserve the establishments at El Paso. Cruzate made known this lack of equipment to the viceroy in a letter dated July 25, 1684. The appeal, which was in the hands of the fiscal on October 3, proved futile, for the fiscal declared that the presidio could not be increased nor new arrangements made without the consent of the Royal Council of the Indies, and the junta general supported his opinion.[7] Before the decision of the junta general reached Cruzate, he renewed his appeal for supplies, on October 7th. He asked for one hundred coats of mail, breastplates, and helmets, as the citizens had sold their leather jackets and arquebuses for food; the soldiers were afoot, their horses and mules having been stolen, or being worn out from hard usage and lack of provender. The fiscal, however, remained firm in his former decision, adding that the people should recover the arms they had sold, as there were neither coats of mail nor helmets at the court of Mexico to send him.[8]

2. *The Removal of the Settlements.*—The settlements were apparently removed nearer to Guadalupe del Paso at the same time the presidio was transferred. As the settlements, which were scattered along the river a distance of ten or twelve leagues, were difficult to defend, Cruzate assembled them within a district of a league and a half, and within easy range of presidial protection. The Tigua and Piro pueblos of Senecú, Socorro, and Isleta were removed at the same time.[9] Most of the Spaniards appear to have been living at San Lorenzo, where the civil officers had their quarters; and they had been there three and a half

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[7] Letter of Cruzate, July 25, 1684, *Expediente No. 2*, pp. 44–47; *Dictamen Fiscal*, October 11, 1684, *ibid.*, pp. 48–50; action of the junta general, *ibid.*, p. 50.

[8] Letter of Cruzate, October 7, 1684, *Viage*, p. 80; *Dictamen Fiscal*, January 22, 1685, *ibid.*, pp. 83–84.

[9] Letter of the cabildo, July 6, 1684, *Autos sobre los Socorros*, folio 149; letter of Cruzate, July 25, 1684, *Expediente No. 2*, p. 46; *Dictamen Fiscal*, October 11, 1684, *ibid.*, p. 49; certification of the cabildo, October 27, 1684, *Autos sobre los Socorros*, folio 20.

years, during which time they must have acquired some kind of permanent dwellings, with arrangements for farming and raising cattle. It is not surprising, then, that they did not take kindly to the proposed change, and that the governor was forced to order the removal made on pain of death to the delinquents. When the settlers were finally domiciled in their new quarters, they found the place very short of conveniences and destitute of pasturage.[10] These disadvantages, added to the forced removal, were the cause of friction between the citizens and the governor, of which an account will follow.[11]

The location of the various settlements after the removal is gathered largely from subsequent, rather than from contemporary, accounts of the settlements. If the word of an unknown writer, who claimed to have resided at El Paso seven years, may be believed, in 1773 the settlements were on the south side of the river; "Hallase esta poblazon en las margenes del rio del Norte á la banda del Sur, etc."[12] In contemporary accounts, San Lorenzo is variously located at two, one and a half, and one league from El Paso.[13] Trigo, Morfi, and Bonilla, however, place it a league and a half east of El Paso.[14] Senecú was two leagues below El Paso; following the road to the east, and about a half league from the Río del Norte.[15] Bonilla and Morfi place Isleta three leagues east of El Paso, but Trigo places it about two

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[10] Letter of the cabildo, July 6, 1684, *Autos sobre los Socorros*, folio 149; petition of the cabildo, September 27, 1685, *ibid.*, ff. 145–46.

[11] Petition of the cabildo, September 20, 1684, *Autos sobre los Socorros*, folio 36; reply of Cruzate, September 20, 1684, *ibid.*, f. 37; petition of the cabildo, September 30, 1684, *ibid.*, f. 40, etc.

[12] *Descripción de las particularidades más demareables de la poblazon del Paso del Rio del Norte expuestas, por un habitante en sigue*, dated September 1, 1773, in *Doc. Hist. Nuevo Mexico*, vol. 2, pp. 1076–1090.

[13] Petition of the cabildo, September 27, 1685, *Autos sobre los Socorros*, folios 145–146; certification of the cabildo, October 27, 1684, *ibid.*, f. 20; list of families, September 11, 1684, *ibid.*, f. 51.

[14] Morfi, *Descripción Geographica*, etc., 1782, in *Memorias*, vol. 25, pp. 113–116 [Mr. Curd's notes]. Bonilla, *Apuntes*, 1776, in *New Mex. Cédulas*, No. 167; Trigo, *Carta*, 1754 in *Doc. Hist. Nuevo México*, vol. 1, pp. 288–289; *Descripción de las particularidades*, etc., *ibid.*, vol. 2, pp. 1079–1090; and Menchero, *Informe*, *ibid.*, pp. 746–749; Villa Señor, *Theatro Americano* (Mexico, 1746), vol. 2, pp. 411–422.

[15] See works cited in note 14.

leagues from Senecú; if the former authorities are right, Trigo's estimate is one league too much.[16] Indeed, another eighteenth century writer confirms the latter conjecture, for he says that San Lorenzo, Senecú, Ysleta, and Socorro are not more than one league apart.[17] Morfi and Menchero place Isleta one league from the Río del Norte.[18] The same writers place Nuestra Señora del Socorro five leagues east of El Paso, one league from Isleta, and a half league from the Río del Norte.[19] The five settlements of San Lorenzo, Senecú, Isleta, Socorro, and Guadalupe—whose site was never changed—were the only ones remaining in the eighteenth century. Accordingly, of López's settlements, the locations of the following have not been accounted for by the later writers: the Indian pueblos of San Francisco, Sacramento, and Santa Getrudis; and the Spanish pueblos of San Pedro de Alcántara and San José. It is known that Santa Getrudis and San Francisco were destroyed during the Manso revolt. The mission at Santa Getrudis seems never to have been rebuilt, but a century later the site of that mission was known as Ojito de Samalayuca[19a] and today the place, which is a small railway station south of Juárez, still bears the name of Samalayuca. As for San Francisco and Sacramento no information is as yet forthcoming. The Spanish settlement of San Pedro de Alcántara—San José appears to have been identical with the presidio,[20]—was probably abandoned, for the muster made in November does not mention it.[21] All of the five settlements still in existence in the eighteenth century comprised both Spanish and Indian settlers.

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[16] Bonilla, *op. cit.*; Morfi, *op. cit.*, pp. 113–116; Trigo, *op. cit.*, pp. 289–90.

[17] *Doc. Hist. N. Mex.* (dated 1750), vol. 1, p. 66.

[18] Morfi, *op. cit.*, pp. 113–116; Menchero, *Informe*, in *Doc. Hist. Nuevo Mexico*, vol. 2, pp. 746–749; Villa Señor, *Theatro Americano* (Mexico 1746), vol. 2, pp. 411–422.

[19] See Morfi, Bonilla, Trigo, Menchero, and Villa Señor, works cited in note 14.

[19a] Escalante, *Carta de 1778*, pp. 120–121, in *Doc. para la Historia de Mexico, Tercera Serie* (Mex., 1856).

[20] "*Comprende dicha poblacion cinco Misiones de Yndios nombrados la de Ntra Sra. de Guadalupe, y. Sr. San José del Paso (capital)*"—*Descripcion de las particularidades*, 1773, in *N. Mex. Doc.*, vol. 2, pp. 1076–1090.

[21] See paragraph below.

From a muster roll of the citizens in and about El Paso, made by order of the governor on November 11, 1684, the number of settlers is learned. This census showed in the pueblo of Corpus Christi de la Isleta twenty-one families and one hundred and eighty-eight persons; in the Real de San Lorenzo, thirty-six families and three hundred and fifty-four persons; and in Nuestra Señora de Guadalupe del Paso, fifty-two families and four hundred and eighty-eight persons. There were therefore one hundred and nine families and one thousand and thirty persons, all told.[22] At the time when Otermín made his muster, October 2, 1680, there were one thousand nine hundred and forty-six persons, including men, women, children, and servants.[23] A loss of nine hundred and sixteen persons is therefore evident. This loss can be explained by the great numbers reported to have fled to Parral, Casas Grandes, Río del Sacramento, and other places.

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[22] Muster roll, November 11, 1684, *Autos sobre los Socorros*, folios 50-56; *Auto* of Cruzate, *ibid.*, f. 34.

[23] *Auto* of Otermín, October 2, 1680, *Autos tocantes*, folios 61–62.

VII. EFFORTS TO ABANDON EL PASO, 1684-1685

1. *The Petition to the Viceroy.*—The extreme sufferings of the people at El Paso determined them to abandon the place and to seek another location, with soil and climate better adapted to agriculture. This desire to leave El Paso, however, was not a recent impulse. When the colonists retreated from New Mexico it appears they were induced to make a halt at El Paso by Father Ayeta's promise to provide food for them for a period of four months, or until instructions from the viceroy should come. Notwithstanding this aid, conditions at El Paso grew so distressing that early in 1681 the colonists began to clamor for permission to retire to Sonora, San Joseph del Parral, and other adjacent places, where they hoped to be self-sustaining; and many, indeed, fled from the place without license. To allay these clamors and to secure the advice of those in authority in religious and lay circles, on April 5, 1681, Governor Otermín ordered a council of war to be held at Nuestra Señora de Guadalupe del Paso, in which the custodian, the definitors, the maestres de campo, the sargentos mayores, and captains were asked for their opinions respecting what course seemed best to pursue. The opinions of these representative men being so divided, the governor concluded to remain at El Paso until he should receive instructions from Mexico City, and to dispatch Maestre de Campo Pedro de Leyba with ten men to Casas Grandes and other neighboring places to secure food at the expense of the governor.[1] Although there is a gap in the evidence now available to the writer, it is not improbable that these clamors to leave El Paso were kept up in a desultory way until the Manso revolt encouraged the wretched citizens to resolve to press their petitions for license

[1] *Auttos que se yeieron sobre clamar los rez[i]nos de este r[ei]no por salir a mejorarse, de puesto por la grave nesesidad que padesen*, April 5-June 15, 1681 (Santa Fé Archives, in Library of Congress).

to leave. In pursuance of this resolution there followed a series of petitions directed to both the viceroy of New Spain and the governor of New Mexico. The first petition, which was dated July 6, 1684, and formulated by the cabildo in the name of the citizens, was addressed to the viceroy. Prefacing their request with a review of their hardships from the time of their retreat from New Mexico to the recent removal to Guadalupe, the petitioners asked for license to settle on El Río del Sacramento, or Nombre de Dios. Their reasons for wishing to make the change were the better opportunities offered by the latter place for earning a livelihood; the ease with which they might incorporate themselves with other New Mexican citizens already settled there; the fact of their being still within the limits of New Mexico, as the king had recently granted to New Mexico jurisdiction as far south as El Río del Sacramento; and the opportunity offered by the change for regaining sufficient strength for a successful attack upon the revolted nations.[1a] This petition may never have reached the viceroy, for in another of September 27, 1685, the cabildo informed him that the messenger, the regidor and alguacil mayor Joseph de Padilla, by whom they had dispatched the petition, had upon his return to El Paso refused to give a satisfactory explanation of the conduct of his mission, and had taken refuge in the convent to avoid further molestation.[2]

2. *Petitions to Governor Cruzate.*—In August and September, 1684, the cabildo presented a number of petitions to Cruzate, asking for permission to abandon El Paso. The first of these, dated August 18, was substantially the same as that to the viceroy, except that the change of place read "to the valley of San Martin, Rio del Sacramento, or Nombre de Dios."[3] Cruzate replied that the royal provisions of his office and the orders of the king to preserve the pueblo del Paso prohibited his granting the license. He agreed, however, to make a list of the families,

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[1a] Petition of the cabildo, July 6, 1684, *Autos sobre los Socorros*, folio 150.

[2] Petition of the cabildo, September 27, 1685, *ibid.*, folio 148.

[3] Petition of the cabildo, August 18, 1684, *ibid.*, folios 32–34.

with a statement of their means of subsistence, clothing, and other property, so that the king, through the viceroy and royal council, might provide for their wants.[4]

Displeased with Cruzate's decision, the cabildo renewed their petition on September 20. This second document was not couched in the conciliatory terms of the first. The petitioners said that the king had ordered that the citizens should be preserved; and that since the governor had acted on his own responsibility in removing them recently from San Lorenzo to Guadalupe del Paso, giving sufficient reasons for doing so, now that their condition was worse he had better reasons for acting on his own initiative. They also pointed out that the loyal Indians were ready to make the change.[5]

Cruzate's reply was vigorous. He reiterated his inability to order the change because of the royal provisions of his office and two royal orders to the contrary. He said that before the proper person and at the proper time he would answer the charge of having removed the citizens from San Lorenzo to Guadalupe del Paso. He said that the abandonment of El Paso would be resorted to only in the last extremity, to prevent the Indians from triumphing over sacred things, and that the demolition of the church was not to be imagined. He charged the people with desiring to abandon El Paso at the time when he and Father López arranged for them to settle a league from the pass; and he disclaimed responsibility for their loss of goods, improvements, and other possessions, on the ground that he was not responsible for their being there, as he was merely executing the orders of the superior government. Granted that he could give the license, he said, so many poor people would be unable to make the change without royal aid. The mention of the Indians greatly displeased him, as such interference in Indian affairs was likely to create trouble with them. He commanded the cabildo to produce within twenty-four hours the royal orders cited by them in regard to preserving the citizens of San Lorenzo. He offered to get the

[4] *Auto* of Cruzate, undated, *Autos sobre los Socorros*, folios 34-35.

[5] Petition of the cabildo, September 20, 1684, *ibid.*, folio 36.

opinion of the resident body of religious on the proposed change, and promised to send the petitions, the answers given them, and the opinion of the religious to the king.[6]

On the same day that the governor's *auto* was promulgated, the religious assembled in the *casas reales* to discuss the petition. There were present Father López, the vice-custodian, and the definitors Fray Diego de Mendoza, Fray Pedro Gómez, and Fray Juan Muñoz de Castro. The priests agreed that the abandonment of El Paso was impossible for many reasons, the chief of which was the royal order to the contrary. Other reasons were the expense involved, the encouragement such a procedure would afford the Indians, and the inability of the people to escape their poverty, no matter where they might settle. As the citizens had already awaited the royal pleasure four years, the priests advised them to wait five or six months longer.[7]

The cabildo, meanwhile, had petitioned Father López to represent the people. This petition, probably, and his own realization of the gravity of conditions, led López to order the religious to assemble again for the purpose of taking counsel together. The meeting was held September 19, in the convent of San Antonio del Seneú, in the pueblo of the Piros. In stating the purposes of the meeting López said that he recognized the difficulty of remaining at El Paso because of the Manso revolt, and he thought it would be well for the religious to send one of their number to the city of Mexico to inform the viceroy and the superior prelates of conditions there. Since the secular authorities had done so little to aid the people, he proposed that the religious should undertake to sustain the poorer citizens until aid should come, and that the work of the religious should be made known to the central authorities. He asked them to select one of their number to undertake the proposed mission. Regarding Father López as the one best acquainted with every phase of the situation at El Paso, the religious unanimously chose him as their messenger.[8]

[6] *Auto* of Cruzate, undated, *Autos sobre los Socorros*, folio 37.

[7] Opinion of the religious, undated, *ibid.*, f. 39.

[8] Declaration of López, September 19, 1684, *Viaje*, pp. 88–90; opinion of the religious, September 19, 1684, *ibid.*, pp. 90–92.

On September 30, Cruzate had his secretary, Don Pedro Ladrón de Guevara, read to the cabildo his reply to their second petition. That body, now thoroughly aroused, petitioned again for the governor to take speedy action on their demand, professing to understand neither the logic of the governor's refusal nor the proposals of López to aid them. On October 2, for the third and last time, Cruzate issued an *auto* refusing their demands, but promising again to transmit the petitions, *autos*, and the opinion of the religious to the central government.[9] Accordingly, on October 7 he wrote a letter to the viceroy enclosing the documents he had promised to send.[10]

3. *Opinion of the Fiscal, January 22, 1685.*—The *autos* and accompanying documents bearing on the abandonment of El Paso were placed in the hands of the fiscal on January 9, 1685. On the twenty-second of that month the fiscal made his report. He considered the arguments of Cruzate and the religious against abandoning El Paso sufficient, and advised that the place should be held until royal orders should come and until López should arrive and make his report. He ordered maize and meat sent to El Paso to relieve the people, whose sufferings were evident from the *autos* and the muster roll.[11] A junta general approved the fiscal's report on May 4.[12]

4. *The Mission of Father López to Mexico.*—Bearing with him testimonials from the governor and the cabildo, López set out for the city of Mexico late in the autumn of 1684, but he did not reach that city, apparently, until May or June of the next year.[13] His report to the viceroy, which was presented on June 7 and was long and detailed, was in the main a repetition of the substance of the petitions, *autos*, and the opinions of the religious given above,

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[9] Petition of the cabildo, September 30, 1684, *Autos sobre los Socorros*, folios 40–42; *Auto* of Cruzate, October 2, 1684, *ibid.*, f. 42.

[10] Letter of Cruzate, October 7, 1684, *Viage*, p. 81.

[11] *Dictamen Fiscal*, January 22, 1685, *ibid.*, pp. 83–87.

[12] Decree of the junta general, May 4, 1685, *ibid.*, p. 88.

[13] Certification of Cruzate, October 7, 1684, *Autos sobre los Socorros*, folio 83; certification of the cabildo, October 4, 1684, *ibid.*, f. 79; *Informe* of Posadas, October 8, 1685, *ibid.*, f. 154.

and included a vivid account of the Indian revolt. López said that the abandonment of New Mexico would be fatal to Spanish supremacy in that region because of the encouragement it would give the Indians, who were already boasting that they would escape punishment, as did the Indians of New Mexico. He therefore recommended that the government should send men, arms, horses, provisions, and clothes to New Mexico, citing royal *cédulas* and decrees of the junta general in support of his advice. While he favored supporting the settlements at El Paso, he regarded them as temporary in character, for, he said: "Those citizens could be maintained and sustained in any one of the places up the river without cost to the Royal Hacienda, there being wide and open aqueducts [in those places]; indeed, it is impossible that His Majesty could maintain the said people in the said place of El Paso del Rio del Norte, by means of supplies brought, for the distance is more than one hundred leagues." The friendly advances already made by six pueblo tribes of the interior seem to have influenced López to favor a removal up the river.[14]

The fiscal, who received López's report on June 7, submitted his opinion on July 27. He advised against the removal of the settlement up the river on the ground that the region between El Paso and the pueblos of interior New Mexico was infested with the apostates, according to the confession of the peace messenger Lucas; that the six friendly pueblos represented only a small part of the revolted Indians of the pueblo region; and that the peace offer rested on doubtful security, as it was prompted by the inroads of hostile Indians, and it might prove an act of treachery to get the Spaniards in the power of their enemies. The fiscal, moreover, advised against granting an aid of four or five thousand pesos to the settlers of New Mexico, since very small returns had been received from former grants of money and equipment, and since such a grant would make a bad precedent. However, he favored both the change of location and the grant of money for making it, on condition that some capable person should go to New Mexico and, examining thoroughly conditions

[14] Representation of López, June 7, 1685, *Autos sobre los Socorros*, folio 81.

there, should find a suitable site for the proposed change; or, if Cruzate and López should find the means of making the change, and, having made it and proved its utility, should present the expense account to the fiscal, the latter would recommend a grant of money to cover the expense. These proposals failing, the citizens must remain where they were, and Cruzate must detain them in whatever way he might find practicable, and aid them out of the funds given him for the presidio. In fine, the fiscal favored delay until the king's decision in the matter should arrive. His advice received the approval of the junta general on August 3, 1685.[15]

Not discouraged by the failure of his first effort, and bent upon achieving his mission, López made a second petition on September 5, basing it on the fiscal's promise of January 22 to send aid when López should arrive and make his report.[16] He made a strong plea to remove the settlement eighty leagues up the river to the pueblo of Isleta, a place with fertile soil, abundantly supplied with water and good pasturage, and surrounded by the haciendas of many citizens.[17] He estimated that to make the change the citizens would need some clothing, one thousand *fanegas* of maize, one thousand beeves, and one thousand horses, all of which would cost about five thousand pesos. Such a change, moreover, would assure to Christendom more than two thousand eight hundred natives already under administration; secure the protection and conversion of the nine nations at La Junta, recently taken under administration; and would end the dispute now ensuing between New Mexico and Nueva Vizcaya over jurisdiction. López showed that no new expense need be involved in the undertaking. The king had already three years before approved of sending twenty-six additional religious to New Mexico;

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[15] The viceroy to the fiscal and the junta general, June 7, 1685, *Autos sobre los Socorros*, folio 89; *Dictamen Fiscal*, July 27, 1685, *ibid.*, ff. 89–91; action of the junta general, August 3, 1685, *ibid.* f. 91.

[16] *Dictamen Fiscal*, January 22, 1685, *Viage*, pp. 83–87.

[17] Through neglect, or from other motives, López did not name Isleta in this petition of September 5, but supplied the omission in a subsequent letter dated September 13, 1685. See *Autos sobre los Socorros*, folio 114.

as these had not been sent, because of the disturbances in New Mexico, the king had saved thereby forty-eight thousand pesos. If the twelve priests asked for by López in his first petition[18] were sent to El Paso, there would still remain a saving of thirty-eight thousand pesos, which, added to the forty-eight thousand already saved, would amount to eighty-six thousand pesos. He felt assured that the new governor suggested by the fiscal could make the removal at small cost. López had one new scheme to offer—the sending of one hundred men to El Paso; these were to be taken from the jails and sent to New Mexico in charge of an officer named by the viceroy, and were to be supported by López, who offered five hundred *fanegas* of maize, three hundred beeves, and two hundred horses for their maintenance and support until harvest time.[19]

In reporting upon the second representation of Father López, the fiscal merely reaffirmed the opinion he had submitted on July 27. On the same day, September 15, the junta general took up the matter again for consideration; the members agreed to submit the petition, with all documents pertinent to the question, to Don Gonsalvo Suárez de San Martín, a member of the Royal Council and judge of the Real Audiencia, to whom the viceroy frequently submitted questions of grave importance.[20]

5. *The Intercession of Posadas.*—About the twenty-eighth of September Father Alonso de Posadas, the procurator general of the order of St. Francis in the City of Mexico, appealed to the viceroy in behalf of López's petition; Posadas felt that his fourteen years' experience in New Mexico, four of which years he held the office of custodian, made him competent to judge of affairs in that country, and he urged the viceroy to make his decision on the basis of López's representation. Acting on this letter from one in high authority in religious affairs, the fiscal ordered a new

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[18] Representation of López, June 7, 1685, *Autos sobre los Socorros*, folio 81, ff.

[19] Petition of López, September 5, 1685, *ibid.*, folios 115–116.

[20] To the fiscal, September 5, 1685, *ibid.*, folio 115; *Dictamen Fiscal*, September 15, 1685, *ibid.*, f. 116; action of the junta general, September 15, 1685, *ibid.*, f. 116.

hearing for Father López, and the viceroy invited Posadas to make his report to Don Gonsalvo Suárez.[21] Posadas made his report on October 8. He said that El Paso had neither the water nor the other requisites for farming and cattle raising; he proposed, therefore, to move the settlers up the river, about one hundred leagues, to San Ildephonso, or to Santa Clara, where ample facilities for farming by irrigation and for stock raising were to be found. The site would prove an excellent one for the presidio, as it faced the revolted area and was in the immediate neighborhood of the pueblos. Posadas estimated the cost of the removal at twenty thousand pesos for clothing, arms, horses, and provisions.

Two things proposed by López, however, Posadas did not favor. He considered the complete abandonment of El Paso impracticable, and likely to prove a serious hindrance to transportation between Mexico and New Mexico, since the country between San Ildephonso, El Paso, and Parral was inhabited by hostile tribes; he proposed, therefore, a guard of ten soldiers of the presidio and forty citizens, of those already settled at El Paso, as a permanent garrison for the place. Posadas, moreover, did not favor the employment of convicts in New Mexico, as such men thought chiefly of escaping from restraint and would probably steal the horses of the other soldiers; he proposed that the alcalde mayor of Querétaro and other interior officers as far as Zacatecas should be employed to enlist volunteers from the farming class or from men accustomed to riding horseback, and, when one hundred volunteers were enlisted, to send them to New Mexico at the time the carts should set out.

To check the widespread inclination of the settlers to leave El Paso, Posadas recommended that the government send aid speedily to the distressed citizens. He favored the acceptance of López's offer of maize, meat, and horses, notwithstanding the aid was assured through debts and benefactions.[22]

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[21] Letter of Posadas, undated, *Autos sobre los Socorros*, folio 152; *Dictamen Fiscal*, October 1, 1685, *ibid.*, ff. 152–153; decree of the viceroy, *ibid.*, f. 153.

[22] Opinion of Posadas, October 8, 1685, *ibid.*, folios 154–156.

In his efforts to get at the root of the situation, Suárez examined other persons besides Posadas. Some of these approved the proposals and recommendations of Posadas; others, as ex-Governor Otermín, Juan Baptista de Escorza, and Francisco Xavier, considered the soil and climate of El Paso sufficiently good for supporting a settlement, and the recent drought due to temporary causes.

When Suárez completed his investigation, he placed the results in the hands of the fiscal, who, on October 26, gave his opinion. The fiscal said that the testimony of Posadas was of little value, since the latter had been absent from New Mexico twenty years, during which time conditions there had changed; and that the testimony of the other friars had been influenced by López and Posadas, whom he charged with having banished one priest from the city to prevent him from testifying. Leaning to the opinions of the lay witnesses, he sustained his opinion of July 27, that nothing should be done until the decision of the king was known, especially since the funds of the Real Hacienda were already pledged, and since such weighty matters as those proposed should not be left to the judgment of the governor and the religious, neither of whom had achieved success in New Mexico. He recommended, therefore, a grant of two or three thousand pesos to relieve the immediate needs of the settlers at El Paso, and, in the event a new governor were sent to New Mexico, that the latter make a full report on conditions there, accompanied by maps of places suitable for settlement.[23]

The decision of the fiscal elicited another letter from Posadas, asking the viceroy to submit to the junta general, along with the *autos, informes,* and other papers bearing on the proposed change of settlement, the letters and reports made by ex-Governor Otermín in 1682. The viceroy granted the petition.[24]

6. *The Final Appeal of the Cabildo.*—While these negotiations between Father López and the government were going forward

[23] *Dictamen Fiscal,* October 26, 1685, *Autos sobre los Socorros,* folios 157–160.

[24] Letter of Posadas, *ibid.,* folio 92; decree of the viceroy, *ibid.,* f. 92.

in Mexico, the long delayed action of the government and the increasing gravity of their own condition emboldened the citizens of El Paso to renew their petition to be allowed to settle on El Río del Sacramento. Those remaining at El Paso were so destitute of clothing that they could neither attend mass nor seek for food: the man who had a pair of trousers was fortunate. Some had sold arms, horses, and clothing for food; and others were subsisting on wild herbs and skins. To increase their helplessness, the Apaches were robbing them of what little they had left. The petition was taken to the city of Mexico by Regidor Lázaro de Mesquía, accompanied by a guard of four men. By November 3 it was in the hands of the fiscal, but the latter did not make known his answer until November 21. Then he charged López with having instigated it, and referred the petitioners to his decisions of July 27 and October 27.[25]

7. *The Final Decision of the Junta General.*—On November 28, 1685, the junta general met to take final action on the question of abandoning El Paso. All documents germane to the question, including Cruzate's letters of August 12 and 26, and the cabildo's letters of July 2 and September 7, were taken under advisement. After due consideration, the assembly resolved that there was not sufficient information at hand to justify the change. It ordered Cruzate, therefore, to make an exhaustive report on the question, and to accompany it with maps of suitable sites for settlement. It ordered, further, a sum of two thousand five hundred pesos delivered to Cruzate from the treasury at Guadiana (Durango) to distribute among the needy at El Paso; and instructed Cruzate to make to the Royal Tribunal strict account of all sums thus disbursed. This decision, which sustained the opinion of the fiscal at all points, assurred the permanent occupation of El Paso.[26]

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[25] Petition of the cabildo, September 27, 1685, *Autos sobre los Socorros*, folios 145–148; order of the viceroy, November 3, 1685, *ibid.*, f. 148; *Dictamen Fiscal*, November 21, 1685, *ibid.*, f. 151. In this last document the fiscal mentions letters of July 2d and September 7th, neither of which appear in the *expediente* called *Autos sobre los Socorros*.

[26] Action of the junta general, November 28, 1685, *Autos sobre los Socorros*, folios 160–161.

VIII. THE QUARREL WITH NUEVA VIZCAYA OVER JURISDICTION

1. *The Extent of the Jurisdiction of Nueva Vizcaya.*—In 1680, when the refugees from New Mexico took up their residence at El Paso del Norte, it seems that Nueva Vizcaya claimed, and in a way exercised, jurisdiction as far north as El Río del Norte. Moreover the government of New Mexico, as has been shown in the pages above, had planted and claimed dominion over the several mission settlements, of which Nuestra Señora de Guadalupe was the nucleus. Accordingly, the rival claims of the two provinces to the territory in and around El Paso led eventually to strained relations between the governors of the respective provinces.

A few citations will bear witness to the justice of the claims of Nueva Vizcaya. In September, 1680, when Otermín's fear of a widespread desertion of his people to Nueva Vizcaya became known to Don Bartolomé de Estrada Ramírez, governor of that province, the latter ordered Captain Andrés López de Gracia, lieutenant alcalde mayor of San Antonio de Casas Grandes, or, in case of his absence or inability, Captain Alonso Pérez Granillo, alcalde mayor of the jurisdiction of Carretas and Janos, to go personally to El Paso del Norte, "jurisdiction of this government, and adjacent to the boundary of the other," and prevent any person's passing from New Mexico to Nueva Vizcaya without license from Otermín. In obedience to this command, Captain Gracia went to El Paso, and there assembling all the people of the neighborhood, whether subjects of New Mexico or Nueva Vizcaya, he made known the proclamation of his governor, on October 5.[1] Meanwhile, on October 1, Otermín had ordered Maestre de Campo Francisco Xavier to make requisition of the lieutenant of the jurisdiction of Casas Grandes, or other

[1] *Auto* of the governor and captain general, September 24, 1680, *Autos tocantes*, folio 79; proclamation of Captain Gracia, October 5, 1680, *ibid.*, ff. 79–80.

officers of Nueva Vizcaya who might be present in the conversion of Guadalupe del Paso, for the return to La Salmeta of all deserters from New Mexico; and Otermín also requested that these officers prohibit any New Mexican subject from passing to Nueva Vizcaya without his written permit.[2] On the same day Xavier executed his commission, delivering Otermín's message to Captain José López de Gracia, the lieutenant of the alcalde mayor of Casas Grandes, who was in the pueblo of Nuestra Señora de Guadalupe del Paso.[3] Moreover, in a certification dated June 1, 1685, Captain Francisco Ramírez de Salazar, of Casas Grandes, mentions that upon Otermín's arrival at El Paso in 1680, the latter found there eight men from Nueva Vizcaya who had come to protect the frontier.[4] Father Ayeta, likewise, adds his testimony to the justice of Nueva Vizcaya's claims when he says "the governor and captain general of El Paso (Don Bartolomé de Estrada)" has sent orders to all his justices to aid Otermín.[5]

2. *Jurisdiction over El Paso given to New Mexico.*—Notwithstanding the claims of Nueva Vizcaya, the superior government in its legislation of January, 1681, found it expedient to transfer the jurisdiction of El Paso to New Mexico. On the seventh of that month the fiscal recommended the transfer;[6] and on the seventeenth a junta general decreed the following: "and since the place where the said people have halted, according to the demarcation, is in the territory of the government of Nueva Vizcaya, it will be possible, His Excellency being pleased, to order that for the present and until the said reduction takes form, the governor of New Mexico may use and exercise jurisdiction where he is, as if he were in the villa of Santa Fé."[7]

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[2] *Auto* of Otermín, October 1, 1680, in *Autos tocantes*, folios 57–58.

[3] Certification of Francisco Xavier, October 1, 1680, *ibid.*, folio 58.

[4] Certification of Francisco Ramírez de Salazar, June 1, 1685, *Autos sobre los Socorros*, folio 130.

[5] Ayeta to the Com. Gen., December 20, 1680, *New Mex. Doc.*, vol. 1, pp. 547–8.

[6] *Dictamen Fiscal*, January 7, 1681, *Autos tocantes*, folio 90.

[7] Action of the junta general, January 17, 1681, *ibid.*, folio 115.

This grant of jurisdiction appears to have been reaffirmed by the viceroy in 1682, the *mandamiento* specifically stating that the jurisdiction of New Mexico extended to the Río del Sacramento.[8] The subsequent history of this question seems to indicate that this last decree of the viceroy was made at the time that Cruzate was chosen to supersede Otermín as governor of New Mexico. Indeed, Cruzate himself says in a letter to the viceroy dated November 16, 1684, that upon his arrival at San Joseph del Parral, in fulfillment of the viceroy's mandate, he made known to Bartolomé de Estrada and his lieutenant, Don Juan de Castilla, the viceroy's orders respecting the question of jurisdiction. The governor of Nueva Vizcaya, however, claimed that the territory given to New Mexico belonged to his government; accordingly, Cruzate took testimony of the transaction and transmitted the dispatches to the viceroy, through Bartolomé de Estrada and his lieutenant.[9]

3. *Jurisdiction Restored to Nueva Vizcaya.*—What conflict, if any, arose over the jurisdiction of the region between the Río del Sacramento and the Río del Norte between 1681 and 1684, is not clear from the documents now available. It is certain, however, that complications had arisen by the summer of 1684. Both Nueva Vizcaya and New Mexico stubbornly claimed the territory in question. Francisco Correa de Aguilar, a citizen of the former province, mentions having sent carts "to the place which they call La Toma del Rio del Norte, jurisdiction of this kingdom of La Bizcaya."[10] And the cabildo of New Mexico says that in removing to the Valley of San Martín, Río de Sacramento, or Nombre de Dios, the people will not be leaving the jurisdiction of New Mexico, since that place is where Don Juan Oñate took

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[8] *Mandamiento del Virrey*, 1682 (Bandelier Collection, in House Exec. Doc., 3rd Session, 53rd Congress, 1894–5). The writer has read this document only by title.

[9] Cruzate to the viceroy, November 16, 1684, *Autos sobre los Socorros*, folio 30.

[10] Letter of Francisco Correa de Aguilar, citizen of San Joseph del Parral, to the governor of Vizcaya, July 17, 1684, *ibid.*, folio 93.

possession of New Mexico;[11] and that the disputed region was given to Cruzate recently by the king.[12]

Both disputants carried their complaints to the superior government. In July, 1684, the cabildo complained to the viceroy that possession of El Río del Nombre de Dios, or Sacramento, which he had conceded to New Mexico, had never been obtained, much to the detriment of New Mexican colonists.[13] Moreover, on July 25, Cruzate informed the viceroy that he had expostulated with the alcalde mayor of Casas Grandes, Francisco Ramírez de Salazar, over the question of jurisdiction, but that the alcalde had refused to submit to his authority, notwithstanding the expostulation was made in the name of the viceroy.[14] In making his report on this letter the fiscal entered no comment on Cruzate's complaint.[15] On October 7, Cruzate again wrote the viceroy that he had reprimanded the alcalde mayor of Casas Grandes concerning some matters pertaining to the control of New Mexico over La Soledad, but that the alcalde had replied that he was in the jurisdiction of Parral, and that he had written instructions from the governor of Nueva Vizcaya to obey no one but the latter.[16] This time Cruzate's complaint elicited a reply from the fiscal, who advised thus: "On this point the fiscal sends the answer which he has given in the *autos* which the said governor sent concerning the reply which Don Bartolomé de Estrada—being governor of the said kingdom of Viscaya and the republic of El Parral—made when the said dispatch was made known to him."[17] In the absence of the documents mentioned in this reply of the fiscal, the meaning would be unintelligible did not subsequent correspondence between the contending parties and the viceroy make it clear. It appears that

[11] The diary kept by Oñate does not sustain this claim. See Oñate's diary, *Doc. Inéd. de Indias*, vol. 16, p. 242.

[12] Petition of the cabildo to Cruzate, August 18, 1684, *Autos sobre los Socorros*, folio 33.

[13] Petition of the cabildo, July 6, 1684, *Ibid.*, folio 150.

[14] Letter of Cruzate, July 25, 1684, *Expediente No. 2*, p. 45.

[15] *Dictamen Fiscal*, October 11, 1684, *Ibid.*, p. 48.

[16] Letter of Cruzate, October 7, 1684, *Viage*, p. 79.

[17] *Dictamen Fiscal*, January 22, 1685, *Autos sobre los Socorros*, folio 76.

in response to an *informe* of the citizens of Parral and neighboring settlements, the viceroy had restored jurisdiction to Nueva Vizcaya.

4. *Jurisdiction again Adjudged to New Mexico.*—That the viceroy had rescinded his grant of jurisdiction to New Mexico does not seem to have been known to Cruzate as late as May 1, 1685. On that day Cruzate wrote to the viceroy renewing his complaints against the governor of Nueva Vizcaya, charging the latter with not having surrendered control of the disputed area, and with having ordered the alcalde mayor of Casas Grandes and other officers within the disputed territory not to give obedience to the governor of New Mexico. When this letter was acted upon by the fiscal in July, his only comment was that the question had already been settled.[18]

In the meantime, the governor of Nueva Vizcaya informed Cruzate that the viceroy had restored to him the disputed territory. Accordingly, Cruzate directed another letter to the viceroy on August 12, in which he informed the latter that his recent ruling respecting the disputed area left him without jurisdiction and the people of El Paso under the rule of Nueva Vizcaya.[19] At the same time, Cruzate reported the viceroy's action to the citizens of El Paso, and gave them a copy of the petition which the citizens of Nueva Vizcaya had made to the viceroy. On August 26, a body of the oldest settlers of El Paso drew up a memorial to the viceroy. They informed him of the tradition current in New Mexico that Oñate had taken possession of New Mexico on Río del Sacramento and asked him to confirm it by looking up the records in the archives. They informed him that the first missions at El Paso had been established by New Mexican friars, and that the first alcaldes of the place had been appointees of the New Mexican governors. They denied the claims of the Nueva Vizcayan citizens to being better able to quell Indian disturbances, giving proof that it was the arms of New

[18] Letter of Cruzate, May 1, 1685, *Autos sobre los Socorros*, folio 111; *Dictamen Fiscal*, July 27, 1685, *ibid.*, f. 110.

[19] Letter of Cruzate, August 12, 1685, *ibid.*, folio 143.

Mexican soldiers that had quieted the recent revolt. They denied also that the farms and haciendas along Río del Sacramento were old establishments, as the citizens of Nueva Vizcaya claimed, averring that those settlements had been placed there during the rule of Don Bartolomé de Estrada, who knew they were placed within New Mexican territory.[20] The cabildo, likewise, were not idle; on September 27 they complained to the viceroy that none of his orders respecting the grant of jurisdiction to New Mexico had been obeyed.[21]

It was not until November 27 that the fiscal made a report on Cruzate's letter of August 12 and the petition of the citizens of August 26. In response to the arguments set forth in the two documents, the fiscal recommended that the *mandamiento* returning jurisdiction to Nueva Vizcaya be withdrawn, and authority restored to New Mexico, without admitting further petitions. When the junta general met the next day it confirmed the recommendation of the fiscal.[22]

On the same day that the junta general confirmed the *dictamen* of the fiscal—November 28, 1685—the viceroy issued a *mandamiento* restoring authority over the region of El Paso and its environs to New Mexico, in accordance with the patents of Governor Cruzate and his predecessors, and ordering that the original *mandamiento* be filed in the archives of New Mexico as proof of the restoration. When Governor Cruzate had received and made known the viceroy's order, he accordingly filed the document in the archives of that province, May 1, 1686.[23]

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[20] *Informe* of the citizens of El Paso, August 26, 1685, *Autos sobre los Socorros*, folio 126.

[21] Action of the cabildo, September 27, 1685, *ibid.*, folio 146.

[22] *Dictamen Fiscal*, November 27, 1685, *ibid.*, folio 144; action of the junta general, November 28, 1685, *ibid.*, f. 160.

[23] Mandam^{to} del Exmo S. Virrey de esta Nu^{a} España en que declara la jurisdicion que pertenese a este Gou^{no} de la Nu^{a} Mex.^{co} en dos foxas y en papel sellado. (MS in Bancroft Collection.)

IX. CONCLUSION: SUMMARY OF SETTLEMENT IN THE EL PASO DISTRICT, 1659–1685

The story of the quarter century of development in the El Paso district contained in the pages above can be briefly summarized. Before 1680 there was a nucleus of Spanish settlers scattered in and around the three missions of Nuestra Señora de Guadalupe, founded in 1659 at the ford of the river; San Francisco, twelve leagues below Guadalupe; and La Soledad, seventy leagues to the southeast of Guadalupe. The first considerable impetus given this somewhat straggling community was the coming of nearly two thousand refugees from New Mexico in the autumn of 1680. These fugitives from Indian hostility settled temporarily on the Mexican side of the Río del Norte in three camps called San Lorenzo, San Pedro de Alcántara, and Santísimo Sacramento, which were placed at intervals for a distance of twelve leagues below Guadalupe. The settlements were used as a base of operations for the expedition to New Mexico in 1681. The attempted reconquest failing, Otermín and his advisers determined upon making arrangements at El Paso for an indefinite stay there. To effect this more permanent organization, Otermín settled the Spaniards at San Lorenzo—whether or not San Pedro de Alcántara and Santísimo Sacramento were abandoned, is not clear—and founded for the accommodation of the Indians who had withdrawn from New Mexico with the Spaniards, three pueblos known as Senecú, Socorro, and Isleta.

Meanwhile, at the suggestion of Otermín and Father Ayeta, the central government determined in January, 1682, upon placing a presidio at El Paso. Although Otermín enlisted the fifty men and the armorer required for the presidio, his enlistment was not made in accordance with the orders of the junta general, nor does it appear that he built a fort. These details were left for fulfillment to his successor. The newly elected Governor Cruzate

secured the equipment for the presidio before he left Mexico, and on his arrival at El Paso in August, 1683, located it on a site which he selected half-way between Guadalupe and San Lorenzo, and about seven leagues from the former. At the same time that he founded the presidio, he and López reorganized the Spanish and Indian settlements, and planted one new mission at Santa Getrudis, about eight or twelve leagues south of Guadalupe, and seven new missions at La Junta, one hundred leagues to the southeast. The Spaniards were at that time distributed among four pueblos, San Lorenzo, San Pedro de Alcántara, Señor San José, and La Isleta; and the Indians were distributed among the pueblos of Socorro, San Francisco, Sacramento, San Antonio de Senecú, and La Soledad. This arrangement indicates two new Spanish settlements—San José and La Isleta—and one new Indian settlement at Sacramento.

Under the impetus of these changes and the influence of Cruzate and López, for a time affairs at El Paso seemed to be in a fair way to prosperity when the Manso revolt occurred in the spring of 1684, in which were allied the Mansos, Sumas, Janos, Julimes, Apaches, Conchos, and other less well known tribes. Only a remnant of the Mansos and the three pueblos of Piros and Tiguas remained faithful to the Spaniards. So numerous were the allies and so savage were their attacks on the missions and settlements that Cruzate was obliged, in the summer of 1684, to remove the presidio nearer Guadalupe del Paso and to gather under its immediate protection all the Spaniards and faithful Indians settled along the river.

Harassed by the Indian war and by the failure of their crops, the citizens of the district began in July, 1684, a series of petitions for license to abandon El Paso. Cruzate and the religious opposed the change; but when López went to the City of Mexico in behalf of the citizens he favored moving the settlement up the river seventy leagues to the old site of Isleta. The fiscal and the junta general refused his petition in August, 1685. The question, however, was reopened at the request of Posadas, the custodian in the City of Mexico; it was put in the hands of Don Gonsalvo

Suárez de San Martín for thorough re-examination. When Suárez made his report, which was the result of an examination of witnesses as well as of the documents pertaining to the subject, the consensus of opinion seemed in favor of holding El Paso. Accordingly the fiscal, the viceroy, and the junta general supported the holding of El Paso unless the king and the Royal Council of the Indies should order it abandoned.

Another question that disturbed the peace of the little settlement was the quarrel between New Mexico and Nueva Vizcaya over the jurisdiction of the land between El Río del Norte and El Río del Sacramento, which involved the control of Casas Grandes and its immediate environs. When Otermín lodged the refugees at El Paso for an indefinite stay there, the viceroy formally gave to New Mexico control over the region in January, 1681; and when Cruzate was made governor in 1682, he reaffirmed the grant of power in more specific terms. However, in 1684, jurisdiction was apparently restored to Nueva Vizcaya, in response to certain petitions made to the viceroy by the governor and the citizens of that province. Immediately the governor and the citizens of New Mexico took active measures to convince the central government of their rights and the vital importance of New Mexican control over the disputed territory. As a result of these labors the viceroy returned the rights of jurisdiction to New Mexico in November, 1685.

These twenty-six years of Spanish activity in the El Paso district attest the indefatigable energy of the Spanish priests, and reveal no inconsiderable returns for their endeavors. Measured in values of the mission, the pioneer of Spanish pioneers, the enterprise presented no mean showing. An area of more than three hundred and fifty miles in breadth, extending from Janos on the west to La Junta on the east, had been partly Christianized and partly settled. There had been reduced to doctrine a part of six or more native tribes, representing among other tribes, the Mansos, Sumas, Janos, Julimes, Piros, and Tiguas. There had been settled within the district fourteen Indian pueblos: Nuestra Señora de Guadalupe of Mansos, San Francisco of Sumas, La Soledad of Janos

and Sumas, Santa Getrudis of Sumas, Nuestra Señora del Socorro of Piros, Isleta of Tiguas, San Antonio de Senecú of Piros and Tompiros, and seven pueblos—sometimes referred to as nine—of Julimes, at La Junta. All but one of these, La Soledad de los Janos, was in the valley of the Río del Norte, or Río Grande, below the great bend. At each of these fourteen settlements there was a church, and in most cases a priest, there being ten Franciscan fathers administering to the group. Moreover, at each pueblo where dwelt a priest there was at least one Spanish family for the aid and protection of the priest. Finally, each pueblo was organized on a civic basis with a corps of Indian officers to manage the civic affairs of the Indians, the organization being patterned after that of the Spanish pueblo.

Measured in terms of the progress of Spanish settlement, the result was less comprehensive in area, but perhaps more solid at base. In addition to the Spanish families settled on farms and the ranches scattered over the area between the Pass and the Río del Sacramento, four pueblos of Spanish citizens were planted in the valley—San Lorenzo, San Pedro de Alcántara, Señor San José, and Isleta—the population of which aggregated at one time about two thousand persons. At the head of the government of both Spanish and Indian settlements was the provincial governor, aided by the council, known as the cabildo, justicia, y regimiento of Santa Fé, which appears to have acted as the chief agent of the entire body of citizens included in the four pueblos. For the protection and safety of both Indian and Spanish settlements, there was placed in their midst a presidio of fifty soldiers, whose employment was limited to local guard and police duty, and whose efficiency was tested during the Manso revolt. In fact, though in 1680 El Paso was regarded as the temporary home of the provincial government, by 1685 settlement had progressed sufficiently to assure it as a permanent part of New Spain and as the capital of New Mexico until the reconquest of the Pueblo region in 1693 by Vargas.

The importance of El Paso in the frontier history of New Spain can scarcely be overestimated. At the most critical period

in the early history of New Mexico, El Paso became the bulwark of the New Mexican colonists against the ravages of the Pueblo Indians and made it possible eventually for Spanish arms to repossess the abandoned province. And, as El Paso was the bulwark of New Mexico, it was also the safeguard of the frontier settlements of Nueva Vizcaya. Nor is the relation of El Paso to early Texas history the least important part that place plays in the frontier history of New Spain. Though the beginning of Texas is commonly associated with the small group of missions established by Massanet in 1690 on the Neches River in Eastern Texas, as a matter of fact, the true beginnings of what is now Texas are to be found in the settlements grouped along the Río del Norte in the El Paso district.

INDEX*

Abó, pueblo, 314.
Acapulco, military post, 203, 213, 216; jurisdiction of military governor, 257.
Acevedo, Father, 332, 358.
Adelantados, character of, 106, 107.
Administration, colonial. *See* American Colonies, Board of Trade, Colonial System, English Colonial System.
Administration in New Spain, general view of, 123; dilatoriness of, 144, 157, 158; military branch of, 197, 218.
Alamán, Lucas, cited, 123.
Alamillo, pueblo, 315.
Albany Convention, plan for union, 10; colonial objections to, 10–13; British objections to, 13; immediate object of convention, 14.
Albuquerque, town, 297.
Alcabala, tax levied in New Spain, 267, 267, *note*.
Alcalde mayor, position and duties of, 116, 257; comparison with similar Dutch and English colonial officials, 282, 283.
Alexander VI, Pope, grant of, in 1493, 232.
Alvarez, Fray Juan, 313, 356.
American (British) colonies, grounds of opposition to imperial authority, 2; lack of unity, 3–4; committees of correspondence, 4; requirements of mother country, 7; plan for concerted action, 9; plan of the Albany convention, 10–14; general demands of colonial assemblies, 29; disputes over money matters, 30; general survey of the British colonial administrative system, 92–96.
Antuñez, 277.
Ancón de Ximenes, El, 352.
Apaches, 314, 335; depredations at El Paso, 381; revolt of, 389. *See* Julimes, revolt of.
Archives of Madrid, Simancas, and Seville, 99; of Mexico, 99, 301, 302; of Santa Fé, 402; of New Mexico, 387; provincial archives of California, 137, *note*.
Arispe, capital of intendancy, 256.
Arteaga, Fray Antonio de, 304.
Asesor, officer of the *consulado*, 185; duties of, as assistant to intendants in department of justice, 260.
Asunción, Fray Juan de, 295.
Atotonilco, pueblo, 299.
Auction of clerical positions and military commissions in Mexico City, 141.
Audiencia, check upon viceroy, 109; character and functions, 131; decisions of (*autos acordados*), 132; nature and powers of, 132; powers of, during interregnum, 143; dispute with viceroy over military honors, 153; struggle with viceroy (as governor) over respective powers, 162, 163; nature of, 182, *note*; judge of, in charge of royal hospital for Indians, 245; importance of, in comparison with Dutch and British India Councils, 281.
Autos sobre los Socorros, MSS cited, 302.
Aviño, mining center, 296.
Ayeta, Fray Francisco de, 310, 313, 315, 316, 318, 320, 321, 335, 388.
Ayuntamiento, of Mexican municipality, 172, 283.
Baltimore, Lord, 66, 68, 71, 72.
Bancroft, H. H., 28, *note*, 93, 107, 287.
Bancroft Collection, 284, 302.
Bandelier Collection, 302.
Belcher, Jonathan, governor of New Jersey, 31, 49.
Beltrán, Father, massacred in revolt at Casas Grandes and Janos, 343.

* Univ. Calif. Publ. Hist., vol. 1.

Benavides, Alphonse, cited, 303.
Benito de la Natividad, Fray, 313.
Bernard, Sir Francis, governor of New Jersey, 33.
Bibliographical notes, 284, 295, 301.
Bibliography, 97, 288–293.
Blas de Herrera, Fray, 307.
Board of Trade for the British American colonies, 9, 53; report on Albany convention, 14; report on New York, 1751, 26, 27; report of 1754, 28; opposition to paper money as legal tender, 33.
Bollan, William, London agent of colony of Massachusetts, 18.
Bolton, Herbert E., 295; collection of manuscript documents, 301, 302.
Bonilla, Fray Juan de, 313.
Boone, Thomas, governor of New Jersey, 31.
Bounty offered volunteers by Massachusetts assembly, 19; by Rhode Island, 22, 23.
Brazil, viceroyalty of, 279; decentralization of government of, 281, 281.
British quartering act, trouble caused by, 20, 12, 52.
Buenos Ayres, expedition of English against, 223; viceroyalty of, 279.
Bull fights, 178.
Bulls of the Santa Cruzada, 235.
Cabal, Fray Juan, 304.
Cadereita, villa, 326.
California, provincial governor of, 192; provincial archives, 137, *note;* Bancroft Collection at the University of, 284, 302.
Calvert, Cecil, secretary of colony of Maryland, 64, 72.
Captaincies-general, administrative divisions of Spanish America, 193.
Carnegie Institution of Washington, systematic study of archives of Mexico, 99.
Carretas, mission, 300.
Casa de Contratación, at Cadiz, 104, 104 *note*, 250.
Casas Grandes, and Janos, revolt of 1684, 342–345, 355; attack on, 356–57; attack on Ojo Caliente, 358; conditions following revolt, 362.
Casas reales, location of, at El Paso, 366.
Cédulas, 285, 318, 324.
Census (*padrón*) taken by Revilla Gigedo, 205, *note*.
Cerralvo, villa, 326.
Cerro Agujeredo, El, 359.
Chama River, 298.
Chapultepec, powder factory, 219.
Charity and poor relief, in New Spain, organization of, 182; work of the state in, 183, 237, 244; the poorhouse, and the foundling asylum, of the City of Mexico, 183; *monte de piedad de ánimas*, 184.
Charles III, 111, 242; reform legislation, 109, 112, 120, 243; decrees of 1765 and 1768, 114; free trade decrees, 1778, 114; industrial and economic reforms, 147; military power granted to sub-inspector by, 198.
Chinaras Indians, in the revolt at Janos and Casas Grandes, 344.
Church, The, in New Spain, organization of charity and poor relief by, 182; relation between state and, 229, 232, 233, 245, 240, 247; friction over ecclesiastical cases, 232, 233, 241; papal grants, 232; dispute as to military honors accorded to archbishop, 234; revenues from, 235; *media anata*, and *mesadas*, collection of, 235; bulls of the Santa Cruzada, 235, 268; tithes, 232, 236; duties of the vice-patron, 236–240; election of church officers, 237–240; *fuero eclesiástico*, 240; ecclesiastical tribunals, 240; tribunal of the Inquisition, 241, 243; loss of privileges, 241; the right of asylum (sanctuary), 242; introduction of the Inquisition, 242–244; the *Concordia* of Philip III, 242, 243; charity, and education, and the church, 244. *See also* Royal Patronage.
Civil government, organization of, in the Spanish and Indian settlements, 301.
Civil service, administration of by viceroy, 105, 141; appointive, elective, and saleable offices, 141; *ad interim* appointments, 141.
Clarke, Dr. William, opinion of Albany convention, 12.

Clinton, George, governor of New York, 26.
Coinage, and monetary system, in New Spain, administration of, 265.
Colonial Opposition to Imperial Authority during the French and Indian War, 1.
Colonial systems of European powers, comparison of, 279–284. *See also* English colonial system, the French in America, the Netherlands.
Colonies, American (British), *see* American (British) Colonies. *See also* names of individual colonies.
Colorado River, of Texas, 298.
Commerce and trade of New Spain, administration of, 104; of the Philippine Islands, 104; decrees of 1765 and 1768, 114; free trade of 1778, 114, 248, 250. *See also* Consulado, Tariffs, Taxes.
Committees of correspondence in British American colonies, 4.
Conchos, pueblo, 299; Indians involved in revolt of 1684, 358, 389; submission of, 360.
Conchos River, 297.
Connecticut, attitude of Albany convention, 12; aid given Crown Point expedition, and expense of, 21; quartering acts passed, 21; impressment of troops authorized, 22; "Committee of War" appointed, 22; power allowed the governor, 22; degree of opposition to imperial authority, 93.
Conspiracy of 1681, 336, 337, 338–341; execution of leaders, 350.
Consulado, The, of Mexico, 168, 168 *note*, 210 *note*, 219, 252; tribunal of, 185; revenue of, 185; financial functions of, 186.
Convicts, proposal of Father López to use them to avoid abandonment of El Paso, 378.
Coráchic, village of Mission San Bernabé, 300.
Coronado, Francisco Vásque de, in New Mexico, 296.
Corregidor, position and duties of, 116, 138, 139, 257.
Correo de Indias, cited, 286.
Cortés, Hernando, privilege of descendants of, 257.
Councils of the Indies (*Consejo de Indias*), 111; origin of, 124; authority of, 125; assessment and collection of Indian tribute, 139; appointees of, 141; *cédulas*, etc., sent to viceroys, 142; settlement of disputes between *audiencia* and viceroy, 153; minute instructions of, 157; ability of, 158; the organ for administrative control in the Iberian colonial system, 280.
Craft guilds in Mexico, 186.
Crown Point expedition, aid given to by different colonies, 19, 21, 25.
Cruzate, Jironza Petriz de, successor of Otermín, 323, 284, 387; appointed governor of New Mexico, 324; efforts to secure equipment, 325; petition for *cabo comisario* and *aposentador*, 326; founding of presidio, 327; muster roll, 327; reorganization of settlements, 328; in the conspiracy of 1681, 338–41; in revolt of 1684, 344, 347–349, 351–355, 359, 261; petitions of citizens of El Paso to, 372, 373, 375; report, maps, etc., of settlement of El Paso, 381; testimony regarding transfer of jurisdiction of El Paso, 385, 386.
Culiacán, occupation of, 295.
Cuitzóchic, village of Mission San Bernabé, 300.
Curd, J. W., cited, 302.
Cusihuiriáchic, village of Mission San Bernabé, 300.
Decree of the Intendants, 1786, 115, 248; analysis of, 254–271; origin and purpose of office of intendant, 115, 115 *note*; effect of decree, 116, 272; character and functions of intendants, 118; *corregimientos* replaced by twelve intendencies, 117, 256; the four departments (*ramos*) presided over by intendants: Department of Revenue and Finance (*causa de hacienda*), 117, 255, 256, 261, 262, 265; judicial functions of, 265; salaries of officers, 266; annual statement, 266; sources of revenue, 266–269; Department of Justice (*causa de justicia*), 118, 255, 260, 262; the *asesor*, duties

of in Department of Justice, 265; Department of War (*causa de policia*), 118, 255, 263, 264, 264; Department of War (*causa de guerre*), 118, 255, 269, 270; exercise of royal patronage by intendants, 257; legal jurisdiction over royal treasury, 265.

De Lancey, James, of New York, 6, 15, 28, 29.

Delaware (lower counties of Pennsylvania), 56.

Denny, William, governor of Pennsylvannia, 51, 53, 54, 55, 57, 58, 60.

Diablo, El, conflict at, during revolt of 1684, 345.

Dinwiddie, Robert, governor of Virginia, 4, 5, 7, 52, 64, 69, 74, 76, 77, 78, 81, 82, 83, 85, 86, 89.

Dientes Negros, tribe involved in revolt of 1684, 361.

Dobbs, Arthur, governor of North Carolina, 87.

Draft laws, enacted by Massachusetts assembly, 19; opposed by Virginia assembly, 80; included in currency bill by Virginia, 82, 84.

DuQuesne, De Menneville, cited, 4.

Durango, capital of intendancy, 256; discovery of minerals in, 296.

Dutch East Indies, government of, 281–283.

East India Company, 280.

English government, plan of, to attack South America, 223.

Echavarría, Fray Nicolás de, 313.

Escalante, Fray Velez, cited, 322.

El Paso District, Spanish settlement of, 1659–1689, 295; early missions and settlers, 303; Spanish settlers, 311, 312; Indian tribes, 314; temporary settlement of refugees from Santa Fé, 315; destitute conditions following revolt of 1684, 362, 371; tribunal of accounts, 366; efforts to abandon El Paso, 371; petition to the viceroy, 371; petition to Governor Cruzate, 372, 373; assembly of the religious to discuss petition, 374; work of Fray Nicolás López against abandonment, 374, 375; his proposal to use convicts, 378; intercession of Father Posadas, 378; actions of the fiscal, 375, 376, 378, 380, 381; final appeal of *cabildo*, 380; petition of citizens to settle on El Río del Sacramento, 381; depredations of Apaches, 381; decision of *junta general* assuring permanent occupation of El Paso, 381; report of Suárez de San Martín, 390; jurisdiction over the district claimed by New Mexico and Nueva Vizcaya, 377, 382; summary of history of settlement of, 1659–1689, 388; civil government, organization of, in Spanish and Indian settlements, 391; permanence and importance of El Paso, 391, 392; results of Spanish settlement, 390; progress of, 391; protection of, 391; relation of to early history of Texas, 392. *See also* Jurisdiction claimed by New Mexico and Nueva Vizcaya; Mining centers; Missionaries; Missions; New Mexico; Nueva Galicia; Presidio of El Paso; Pueblos in El Paso district; Revolt of 1684, Settlements; Zacatecas.

English colonial system, in North America, 92–96; rights claimed by colonial assemblies, control of finances, of movements of troops, of adjournment, etc., 94; American ideal of government, 95; concerted action by colonies brought about by passage of Stamp Act, 95; comparison with that of Spain, and of the Netherlands, 280–284; East India Company, 280; Board of Control, 280; Secretary of India, and council, 280; the council at Calcutta, 281; the Spanish subdelegate and the district officer of British India, 282; employment of native officials, 282; early appearance of provincial legislation, 283; other points of comparison with Spanish colonial system, 107, 124, 127, 128, *note*, 129, *note*, 132, *note*, 139, 149, 157, *note*, 158, 169, 194–95, 200, 239.

Espinola, Fray Joseph de, 341.

Estero Largo, 320.

Farfán, Fray Francisco, 341, 362.

Finances of New Spain, superintendent of, 116; council of (*junta general de real hacienda*), 117, 256, 261, 262, 268; "hacienda," meaning of, 117; history of the financial system, 236, *note;* administration of municipal funds and communal property of Indians, 261; *Tribunal de contaduría de cuentas*, 269. *See also* Decree of the Intendants; Revenue, sources of; taxes, etc.

Fiscal, reply to Father Ayeta's letter, 321; opinion of, on abandonment of El Paso, 275, 376; hearing of Father López, 378; unfavorable decision, 380, 389; recommendation of transfer of jurisdiction of El Paso to New Mexico, 383; reply to further complaints, 385; final dictamen to restore jurisdiction to New Mexico, 387.

Fisher, Joshua Francis, cited, 41, 46.

Franciscans, convent at Parral, 300; work among the Julimes, Janos, Sumas, 299, 300.

Franklin, Benjamin, member of Pennsylvania assembly, 35, 46, 47, 50, 51, 55, 59, 62.

Free-trade decree of 1778, 114, 248, 250; first put into effect by Cevallos, 114, *note*.

French, The, in America, policy of, with the Indians, 15; French colonial legislation, 281, 283, *note;* native officials, 283.

French and Indian War, comparative preparedness of French and English colonies for the war, 4; attitude of colonies toward, 16.

French Revolution, The, 182, *note*, 207; wars of, 274.

Fuero militar, 221, 226.

Galisteo, pueblo in El Paso district, 314.

Galloway, Joseph, 55.

Gálvez, José de, Minister General of the Indies, 100; visitor general of New Spain, 106, 113; reports (*informes*), 113; effect of reforms of, 120; director of expedition to California, 246; reforms of, 248, 253.

Gaceta de México, cited, 286.

Georgia, 89; military weakness of, 96; circumscription of rights of the assembly, 99, and resultant controversy, 90-92.

Glen, James, Governor of South Carolina, 9, 88.

Gómez, Fray Pedro, 313, 374.

Government monopolies in New Spain, 267.

Gran Quivira, 298.

Gregory XII, pope, bull of, 233.

Guadalajara, 296; capital of intendency, 256.

Guadalupe del Paso, presidio, 365.

Guadalupe, Nuestra Señora de, Mission, 305, 379, 388, 390.

Guadiana (Durango), money ordered delivered to Cruzate from treasury at, 381.

Guanajuato, military force at, 299; capital of intendancy, 256; mining center, 296.

Guerra, Fray Antonio, 320, 349.

Hacienda, Real. See Decree of Intendants, and Finances, superintendent of.

Halifax, Earl of, appointed head of Board of Trade for the British American colonies, 9; complaints of colonial governors, 9; panacea suggested for colonial troubles, 27; letter to Pennsylvania assembly, 45.

Hamilton, James, governor of Pennsylvania, 61, 62, 63.

Hardy, Sir Charles, governor of New York, 29, 31.

Hospitals in New Spain, 171, 245; military (naval) hospitals, 105, 218, 245; royal hospital for Indians, 245; lack of uniformity in administration of, 246.

Huehuetoca, drainage canal of, 151, 167, 168.

Hughes, Anne E., paper by, 295.

Humboldt, von, Alexander, 134, 253, 286.

Hurtado, Fray Nicolás, 313, 335.

Iberian colonial system, 280.

Immigration into New Spain, 181, 226, 252.

Inó, mining center in New Spain, 296, 299.

Indentured servants recruited for French and Indian War, 66, 68.

India House. *See Casa de Contratación.*

Indians, of New Spain, government's administrative policy toward, 138–141; commissioners (*corregidores*) sent from home country, 138, 139; political status of, 139; recognition of Indian caciques, 139; protection of enjoined upon viceroys, 139; "tributo" imposed, 139; royal superintendent of Indian affairs, 139, *note;* separation from the Spaniards, 140; benefit of negro slavery to, 140, 141; land and capitation tax of, 140; preservation of old rights and customs, 259; administration of communal property of, 261.

Indians, of the North American colonies, friendship won by French, 15; aid offered to Maryland, 66; present for by Virginia, 84.

Indians, Christian, used as settlers, 308; rejected priests rescued by, 331; unrest and dissatisfaction of, 337–38; faithfulness of in time of revolts, 343, 358.

Indies, minister of the, 125, 126; ministry of the, 125. *See also* Council of the Indies.

Inquisition, The, introduced into New Spain, 242.

Intendants, privileges of *montepío militar*, and of *fuero militar*, 266.

Intendants. *See* Decree of Intendants.

Isleta, San Antonio de la, pueblo in El Paso district, 314, 329, 367, 368, 388, 389.

Isleta, Corpus Christi de la, 330, 370.

Jacomes, in revolt at Janos and Casas Grandes, 344.

Janos, work of Franciscans among, 300, 390; mission of, La Soledad, 310; revolt of, 342–389. *See also* Casas Grandes and Janos, revolt at.

Jesuits, The, 235, 238, *note*, 299, 300.

Johnson, Colonel, (Sir) William, commander of Crown Point expedition, 19.

Juan and Ulloa, Admirals, report of, 1736 (*Noticias Secretas*), 112.

Juárez, church records of, 302, 312.

Julimes, work of Franciscans among, 300, 330; revolt of, 358, 389.

Jumanos, 314, 331; expeditions to, 298, 299.

Junta, de los Ríos, La, establishment of missions at, 330, 331, 338, 389, 391; progress of missionary work, 333; pueblos at, 390.

Junta general, 301, 318, 322, 325, 381, 383, 389, 340.

Junta superior de real hacienda, 268.

Jurisdiction claimed by Nueva Vizcaya and New Mexico, 377, 382, 390; extent of jurisdiction claimed, 382; justice of claim of Nueva Vizcaya, 382; jurisdiction granted to New Mexico on recommendation of fiscal, and decree of *junta general*, 383, 390; reaffirmed by viceroy, 384, 390; claimed by governor of Nueva Vizcaya, 384; testimony of transaction sent by Cruzate to viceroy, 384; jurisdiction restored to Nueva Vizcaya, 384, 386, 390; further complaints of Cruzate and *cabildo* to viceroy, 385; reply of fiscal, 385; jurisdiction again adjudged to New Mexico, 386, 390; memorial of settlers of El Paso to viceroy, 386; complaint of *cabildo*, 387; reply and recommendation of fiscal, 387; confirmation of by *junta general*, 387; document containing viceroy's order filed by Cruzate in archives of New Mexico, 387.

Keith, Sir William, governor of Pennsylvania, 36.

La Plata, Río de, viceroyalty of, 138; pressure of the Portuguese from Brazil, 138.

Lake George expedition, aid given by Connecticut, 23.

Laws of the Indies (*Leyes de Las Indias*), 131, 284.

Littleton, William Henry, governor of South Carolina, 89.

López, Fray Nicolás, 300, 328, 329, 330, 331, 332, 349, 374; description of damage done by revolt of 1654, 364; settlements of, 369; mission to Mexico, 375, 377; efforts to prevent abandonment of El Paso, 375, 377, 378, 389.

Loudoun, Earl of, dispute with Massachusetts, 20; rebuke administered to Rhode Island, 23; quarters for British soldiers demanded of Pennsylvania, 52; message to governor of Pennsylvania, 54; opposition encountered in Maryland, 69.

Louisiana, acquisition of, forced on Spain, 136.

McCormac, E. I., paper by, 1.

Madrid, archives of, 99.

Mansos, 303, 305, 314, 344, 390; governor of, 336; revolt of, 334, 348, 389; causes of revolt, 340, 354.

Manufactures, in New Spain, 148, *note*, 149; minute supervision of, by home government, 147–152; regulation of tobacco monopoly, 150, 151; native talent for weaving, 150, *note*.

Mapimí, pueblo, 299.

Maryland, 16; attitude at Albany convention, 11; three opposing interests: people, proprietor, crown, 63, 71, 73; assistance rendered in the Ohio expedition of 1754, 64; disputes over income from fines and licenses, 65; voluntary subscriptions for military uses, 66; militia law, 66; treatment of Indians, 67; control of movement of troops, 68, 69, 70; poll tax to pay for militia, 70; as proprietary colony, opposition to imperial authority intensified, 93.

Massachusetts, 16; aid given to southern governors, 8; action at Albany convention, 10, 12; jealousy of assembly for colony's prestige, 19; military activity of, 17–20; bounties offered, and draft laws passed, 19; trouble over British quartering act, 20.

Massanet, Damián, and the beginning of Texas, 392.

Medina, Balthassar de, 305.

Menchero, Fray Juan Miguel, chronicler, 330.

Mendizábal, Bernardo López de, governor of New Mexico, 304, 308, 311.

Mendoza, Fray Diego de, 374.

Mérida, capital of intendancy, 256.

Mexcomahua, pueblo, 299.

Mexico, archives of, 99, 301, 302; public improvements and internal development, 165, 166, 167; population of, 168, 169 note; Cathedral of, 238; education in, 179, 244, 245, 245 *note*; Secretaría del Cámara, history and origin of, 188–189; reorganization of, 189–190; subsidies furnished Spain, 201, 278; University of, 245. *See also* the *Consulado* of Mexico.

Mexico City, courts of justice, 164, *note*; water supply, 175, 176; city markets, 175; street lighting, 173; fire protection, 174; *juez de plaza*, *juez de cancrías*, 175; provision against famines, 176; guild of bakers, 176; importance to, of drainage of the Valley of Mexico, 168; the poorhouse, and the foundling asylum of, 183.

Military forces of New Spain, 199, 200; organization of, 199; character of early military conquerors, 199; recruiting and maintenance of troops, 200; composition of Mexican army, 201; number of troops, 202, 207, *note*; composition of the regular army, 201, 202, 203; organization and disposition of, 203; Mexican militia (army), 204–206, 208–210, 227; three classes of: *compañías sueltas*, 206, 208; provincial militia, 206, 208; "crack" organizations, 208, 209; Gulf coast defense, 206, 207; southern and western coast defense, 207, 208; *Regimiento Urbano del Comercio de Mexico*, 210; military organization of interior provinces, 211; distribution of troops, 211; fortified places, 212, 213; strategic significance of Perote, 213; health problem presented by unfavorable climatic conditions, 214, 217; proposed fortification of northwestern

coast of Mexico, 215; importance of San Blas as a naval base, 215, 216; housing of the troops, 217, 218; military hospitals, 105, 218, 219; maintenance of the army, 219, 220; powder factory at Chapultepec, 219; *fuero militar*, 221; *montepío militar*, 222; general military problems of viceroy as captain-general, 137, 138, 222, 223; arguments for and against European troops, 224, 225, 226; aggravation of military problems by increase of immigration, 227; summary of viceroy's position as captain-general, 228.

Militia law in Maryland, 66; Pennsylvania, 50, 56; Virginia, 78.

Mines of New Spain, administration of, 103; mining laws, 103; importation of European miners, 147; government monopoly of the mining industry, 268.

Mining centers: Aviño, Guanajuato, Indé, Pánuco, San Andrés, Santa Barbara, Zacatecas, 296.

Missionaries: *See* Fathers Acevedo, Agustín de Santo María, Juan Álvarez, Antonio de Arteaga, Juan de Asunción, Francisco de Ayeta, Beltrán, Benito de la Natividad, Blas de Herrera, Juan de Benilla, Juan Cabal, Nicolás de Echavarría, Joseph de Espinola, Francisco Farfán, Pedro Gómez, Antonio Guerra, Nicolás Hurtado, Nicolás López, Diego de Mendoza, Muñoz de Castro, Sebastián Navarro, Marcos de Niza, Estévan de Perea, Francisco Pérez, Payo de Ribera, Rodríguez, Juan de Salas, Francisco de Salazar, Nicolás de Salazar, Salvador de San Antonio, García de San Francisco y Zuñiga, Juan de Sumesta, Antonio de Sierra, Antonio Tabares, Talamantes, José de Truxillo, José Valdez, Zavaleta.

Missions, in the El Paso district, 246, 299, 300, 310; statistics of, 313, 314; list of: Carretas, Cuencamé Durango (296), Nuestra Señora de Guadalupe, La Junta de los Ríos, Natividad, Nombre de Dios, Papasquiaro, Parral, Parras (296), San Andrés (300), San Antonio de Casas Grandes, San Bartolomé (296), San Bernabé, San Felipe, San Francisco de los Sumas (310), San Francisco Borja (299), San Gabriel, San Gerónimo Huexotitlan, San Ignacio, San Mateo, San Miguel de las Bocas, San Pablo Valley, San Pedro, San Pedro Namiquipa, Santa Gertrudis, Santa María de la Natividad, Santa Ysabel Toreimares, Santiago Babonyaba, Satevó, Satillo (296), Torreón, *which see*. *See also* Pueblos.

Monetary system, and coinage, in New Spain, 265.

Montepío de oficinas, 184.

Monte de piedad de ánimas, 184.

Montepío militar, 184, 222, 266.

Morris, Robert Hunter, governor of Pennsylvania, 14, 16, 34, 42, 43, 45, 47, 49, 51.

Moses, Bernard, 287.

Municipalities, Mexican, local government of, 172.

Muñoz de Castro, Fray, 374.

Namiquipa, Sonora, 357.

Natividad, mission, 300. *See* Santa María de la Natividad.

Navarro, Fray Sebastián, 313.

Navigation laws, Spanish, enforcement of, 228.

Navy of New Spain, 105; navy hospital at Vera Cruz, 105.

Netherlands, The, comparison of colonial system with that of Spain and of England, 140, *note*, 279, 280; check upon governor-general of Dutch East Indies, 281; the council at Batavia, 281; comparison with provincial government of New Spain, 282; the *intendant* and the Dutch Resident, 282; employment of native officials, 282; Dutch policy with, 283; the regents in Java provinces and the *subalterros*, 283; no provision for provincial legislation, 283.

Negro slavery in Spanish America, 140, 140 *note*, 141.

New Hampshire, attitude at Albany convention, 11; reluctance of assembly to assist in common defense, 25; aid given Crown Point expedition, 25.

New Jersey, general harmony between governors and assembly, 32; controversy over paper money, 32, 33.

New Mexico, advance of settlement up the west coast, 298; up the central plateau, 296; colonization of, 297; dispute with Nueva Vizcaya over jurisdiction, 377, 382; expansion of, 298; manuscript documents of, administrative relations to central and provincial governments, orders, proclamations, criminal processes, etc., 301, *note*; governors of, 301, 304, 308, 310, 355; refugees from, go to missions of Guadalupe, 388; religious of, 301. *See also* Cruzate, Mendizábal, Jurisdiction claimed by Neuva Vizcaya and New Mexico, Otermin, El Paso.

New Spain, commerce and trade of, 104, 114, 248, 250; government monopolies, 104, 265, 267; hospitals, 105, 245; civil administration, 123, 144, 157, 187; legislation in, 131; policy prescribed by Spanish government against native races, 138–141; public service activities, 151, 165, 170–176, 179–181, 264, 265; the *ayuntamiento*, 172, 283; character of population of in eighteenth century, 179; popular vices of (drunkenness, gambling, social evil), 180, 181; immigration problem, 181, 226, 252; military administration, 197–228; enforcement of imperial navigation laws, 228; relation between church and state, 182, 229, 232, 233; royal patronage, 230, 232, 246, 257; introduction of the Inquisition, 242; administration of municipal funds, 261; of communal property of Indians, 261; coinage, and monetary system, 265; sources of revenue, 266–268. *See also* Administration in New Spain, Captaincies-general, *Casa de Contratación*, Charity and poor relief, The Church in New Spain, Civil service, Commerce and trade, Council of the Indies, Decree of the Intendants, Finances, Indians, *Leyes de las Indias*, Manufactures of New Spain, Mexico, Mexico City, Military forces of New Spain, Mines, Navy, Revenues, Taxes, Viceroy of New Spain.

New York, opposition to imperial authority, 6, 26, 28, 29; disputes over money matters, 30; passage of militia law, 31; generosity of, in later years, 31.

Niza, Fray Marcos de, 296.

North Carolina, 85, 86; drafting laws, 86; troops allowed to serve outside the colony, 86; disputes between governor and assembly, 87, 88.

Noticias Secretas, 112, 112 *note*, 116, 134.

Nuestra Señora de Guadalupe. *See* Guadalupe.

Nueva Galicia, revolt of native tribes, 296; expansion of, 299; dispute with New Mexico over jurisdiction, 377, 382; governors of, 311, 382. *See also* Jurisdiction claimed by Nueva Vizcaya and New Mexico.

Oaxaca, capital of intendancy, 256.

Ohio, defense of, during French and Indian War, 5–7.

Ojito, E. de Samalayuca, 329, 369.

Ojo Caliente, El, 358.

Órdenes reales, 147, 148, 153, 156.

Osborne, Sir Danvers, appointed governor of New York, 27, 28.

Otermin, governor of New Mexico, 310, 315, 316, 317, 319, 320, 322, 324, 335, 337, 371, 380, 388.

Pañuco, mining center of New Spain, 296.

Parral, mission, New Spain, 299, 300; governor of, 331.

Pattos, Los, attack on, by Indians, 354.

Peabody Museum of Harvard University, Bandelier Collection in, 302.

Penn, Thomas and Richard, proprietors of colony of Pennsylvania, 37, 44, 45, 53, 59.

Pennsylvania, opposition to imperial authority, 6; attitude at Albany convention, 11, 12; opposing interests of crown, people, and proprietor, 34–37, 59; basis of claims of the assembly, 37, 38; charter of liberties (privileges), 39; adjournments, 39;

attempts to issue bills of credit, 40, 42, 46, 57, 61; control of defense funds, 40, 41, 57; attitude toward a colonial union, 41; toward a proprietary government, 44; indifference and hostility to British interests, 45, 46; levying of tax on estates, 47–50, 52, 57; militia law, 50, 56; acceptance of British act for quartering soldiers, 52; military duty made compulsory, 54; controversy over treaty-making right, 55; over control of troops for service outside the colony, 55; over right of appointment, control of money, 57; decision of British Privy Council, 162; "Heads of Complaints," 59; controversy over bill in 1759, 60; veto of assembly bill by king, 62; as proprietary colony, opposition to imperial authority increased, 93.

Perea, Fray Estévan de, 304.

Pérez, Fray Francisco, 304.

Perote, fortress in New Spain, 212, 213.

Philippine Islands, commerce of administered by viceroy of New Spain, 104.

Pilar, Nuestra Señora del, presidio, 327.

Pires, Los, 314, 335, 390.

Pitt, William, aid requested of Pennsylvania, 59.

Popé. *See* Pueblo revolt.

Posadas, Fray Alonso de, 308, 309; intercession of in behalf of Fray López' petition against abandonment of El Paso, 378, 379, 389.

Pownall, Thomas, governor of Massachusetts, 20.

Presidio at El Paso, 317, 388, 391; equipment of, 324, 367, 389; founding of, 327; removal to Guadalupe del Paso, 365; muster of, 365; *casas reales*, 365.

Proprietary estates in the British American colonies, taxation of, 37, 47–50, 52, 57, 61, 62, 68, 77.

Proprietary instructions, 34, 51, 53, 64, 66, 92.

Provincias Internas, 155, 156, *note;* administration of, 211, *note;* military organization of, 211.

Public granaries (*alhondigas*, or *positos*), 176, 265; guild of bakers, 176, 177; regulation of sale of bread, 176; crop reports, 265.

Public health in viceroyalty of New Spain, supervision of, 170, 171, 172; health ordinances, 171; sanitary measures, 172; public (water) fountains, 176; health of the army, 171, 214, 217.

Public lands, administration of, 264.

Public markets, policing and regulating of, 175.

Public morals, 179–181; drunkenness, and the regulation of the liquor traffic, 180; games of chance, and the social evil, 181; jurisdiction over, by the governor, 179–181; by the police department, 263.

Public works in New Spain, construction of drainage canal for City of Mexico, 151–152, 167–168; building of, 165; scheme of internal improvements, 168–170; street lighting, 173; fire protection, 174; city markets, 175; supervision of, 264.

Puebla, military force at, 209; capital of intendancy, 256; royal patronage of the intendant, 257.

Pueblo region, reconquest of, 1693, 391.

Pueblo revolt of 1680, 301; Popé, native leader of, 301; siege of Santa Fé, 301; withdrawal of Governor Otermín, 301.

Pueblos, Indian, description, location, and organization of, 391; revolt of, 301; names of: Abó, Atotonilco, Couchos, Galisteo, Nuestro Señora de Guadalupe, San Antonio de la Isleta, La Junta, Mescomahua, Mapimí, El Sacramento, San Antonio de Senecu, San Francisco Borja, San Francisco de Conchos, San Gabriel, San Jose, San Lorenzo, San Pedro, Santa Getrudis, Satevó, Sevilleta, Nuestra Señora del Socorro, La Soladad, *which see.*

Pulque, tax on, 267.

Putnam, Frederick W., 302.

Queretaro, 296.

Quivira. *See* Gran Quivira.

Real hacienda. See Finances, superintendent of. *See also* Decree of the Intendant.
Religious, The, work accomplished by in the El Paso district, 390.
Residencia, check upon viceroy, 109, 129, 134; condemnation of, 135.
Revenues of New Spain, expenditure of, 103, 105, *note;* sources of: *tributo*, 139, 266; land and capitation tax, 140; rental from city markets, 175; income from the church, 235; *alcabala*, and pulque, 267; government monopolies (powder, playing cards), 276; mining industry, 268; bulls of the Santa Cruzada, 235, 268; various taxes, 268; councils of auction, 268.
Revilla Gigedo, viceroy of New Spain, 106, 143, 148, 149, 163, 166, 169, 170, *note*, 175, 178, 185, 188, 189, 190, 195, 196, 204, 205, 213, 217, 230, 234, 243, 244, 245, 271, *note*, 272, 274, 278.
Revilla Gigedo, the elder, 127, 179, 230, 237, 286.
Reynolds, John, governor of Georgia, 90.
Rhode Island, attitude toward plan of Albany convention, 11, 13; building of Fort George, 22; aid given Crown Point expedition, and expense of, 22, 23; "Committee of War" appointed, 22; bounty offered, 22, 23; aid to the Lake George expedition, 23; degree of opposition to imperial authority, 93.
Ribera, Fray Payo de, 318.
Rivera, Augustín, cited, 123.
Rodríguez, Fray, 297.
Royal American regiment, 68, 84.
Royal monopolies, control and administration of, 104; lawsuits arising from management of, 265; income from, 267.
Royal patronage, 230, 237, 246, 257; history of, 232.
Royal Society, medal awarded to Benjamin Franklin, 51.
Royal treasury, legal jurisdiction, over, of intendant, 265.
Sacramento, El, pueblo of the Tipuas Indians, 315, 328, 329, 369.
Sacramento, Real, de Santísimo, 329, 388, 389.
Salas, Father Juan de, 298.
Salazar, Father Francisco de, 305, 313.
Salazar, Fray Nicolás de, 313.
Salineros, Los, involved in revolt of 1684, 361.
Salineta, La, 315.
Salvador, Fray, de San Antonio, 360.
San Andrés, mining center, 296; mission, 300.
San Antonio de Casas Grandes, mission, 300.
San Antonio de Senecú, 305, 328, 329, 367, 368, 388, 389.
San Bernabé, mission, 300.
San Blas, fortress, 203, 215, 216.
San Felipe, mission, 299.
San Francisco, 389, 390.
San Francisco Borja, mission and pueblo, 299.
San Francisco de Conchos, 299.
San Francisco de los Sumas, mission, 310, 328.
San Francisco y Zuñiga, Fray García de, 304, 305, 309.
San Gabriel, pueblo and mission, 299.
San Gerónimo Huexotitlan, mission, 299.
San Ignacio, 300.
San José, Señor, pueblo, 329, 330, 369, 389.
San José, El Glorioso, presidio, 327.
San Juan de la Concepción, Real de, 358.
San Juan de los Caballeros, 228.
San Juan de Ulua, fortress, 212.
San Lorenzo, 322, 330; Plaza de Armas de, 319; settlement, 368, 370, 388, 389.
San Luis Potosí, 296; capital of intendancy, 256.
San Mateo, 300.
San Miguel de las Bocas, mission, 299.
San Pablo Valley Mission, 299.
San Pedro, mission, 299.
San Pedro de Alcántara, 328, 330, 369, 388, 389.
San Pedro Namiquipa, mission, 300.
Santa Bárbara, mining center, 296.
Santa Cruzada, bulls of the, 235, 268.
Sante Fé, 328; settlement of, 298; siege of, 301; council of, 391.

Santa Getrudis, 321, 328, 369, 389, 390; revolt at, 347.
Santa María, Agustín de, Fray, 313.
Santa María de la Natividad, mission, 300.
Santa Ysabel Torcimares, mission, 300.
Santiago Babonyaba, mission, 300.
Satevó, mission and pueblo, 299.
Sauces, Los, skirmishing near, during revolt of 1684, 352.
Secretaría de Cámara del Virreynato, 186; history of, 188; reorganization of, 189.
Senecú, 305, 367, 368, 388, 389; San Antonio de, settlement, 328, 329.
Serra, Fray Junípero, expedition to California, 246.
Settlements in El Paso district, reorganization of, 328; consolidation of, 365; forced removal of, 367; consequent friction between citizens and governor, 368; locations of, 368, 369; number of settlers, 370.
Seville, archives of, 99.
Sevilleta, pueblo, 315.
Sharpe, Horatio, governor of Maryland, 7, 8, 16, 61, 65, 66, 67, 68, 70, 71, 73.
Shirley, Gen. William, governor of Massachusetts, 10, 14, 16, 18, 41, 42, 49, 82.
Sierra, Fray Antonio de, 313.
Sierra Madre, 299.
Simancas, archives of, 99.
Six Nations, The, 14.
Slavery, negro, in Spanish America, 140, 140 *note*, 141.
Smith, Donald E., paper by, 99.
Socorro, Nuestra Señora del, mission, 305, 369; pueblo, 328, 367, 388, 389, 390.
Soledad, La, de los Janos, 310, 328, 388, 389, 390.
Solórzano, cited, 140, *note*, 277.
South Carolina, curtailment of governor's power, 88; character of aid rendered during French and Indian War, 89; depreciation of currency of the colony, 89; adoption of British army rules of discipline, 89.
Spain, colonial system of, 279–284; model for Dutch and English, 280; comparison of provincial government with that of English, and Dutch, 282; the intendant and the Dutch Resident, 282; Spanish subdelegate and the district officer of British India, 282, and the assistant resident of Java, 282; employment of native officials, 282; the *subalternos* and the regents in Java, 282, 283; no provision for provincial legislation, 283; the *ayuntamiento*, 283, 284. *See also* The Viceroyalty of New Spain.
Spanish institutions in latter half of eighteenth century, 101.
Spanish Settlement in the El Paso District, Beginnings of, by Anne E. Hughes, 295.
Stamp Act, 2, 95.
Statistics of missions, 313, 314.
Sumas, 314, 329, 343, 344, 390; revolt of, 345, 347, 389; peace negotiations, 359; submission of, 360; work of Franciscans among, 300; San Francisco de, mission of, 310.
Sumesta, Fray Juan de, 330.
"Suspending clause," The, in the British American colonies, 24, 30, 39, 42.
Tabares, Fray Antonio, 313.
Talamantes, Father, cited, 302.
Tanos, tribe, 314.
Tarahumares, tribe, 299, 301.
Tariffs in New Spain regulated by the *consulado*, 185.
Tax, poll, imposed in Maryland to cover expense of militia, 70; proposed for all colonies by Governor Dinwiddie, 78.
Taxation, parliamentary, cause of American Revolution, 93; of proprietary estates, 37, 47–50, 52, 57, 61, 62, 68.
Taxes, in New Spain, collection of, 103; tribute or capitation tax, 103, 267; duties on commerce, 103; tax on flour, 174; *alcabala* tax, 185, 220, 267; the *avería*, 185; variety of, 220; for military purposes, 220; in the free trade decree of 1778, 252; *tributos*, 266, 267, *note*; pulque, 267; on mercury, paper, papal bulls, the royal fifth, royal ninths, episcopal fourths, 267, 268; *tribunal de contaduría de cuentas*, 269, 366.

Texas, beginning of, 39.; relation of El Paso to early history of, 392.
Texas State Historical Association, *Quarterly*, cited, 295.
Tiguas, tribe, 328, 329, 335, 390.
Tobacco monopoly, regulation of, 150.
Toluca, building of road from, to City of Mexico, 166.
Torreón, mission, 300.
Trades unions, 186.
Tribunal de contaduría de cuentas (Tribunal of accounts), 269, 366.
Tribute (*tributos*), tax on Indians in New Spain, 139, 266, 267, *note*.
Truxillo, Fray Jose de, 313.
Tutuaca, 300.
Ulloa and Juan, Admirals, report of, 1736, 112.
Valladolid, capital of intendancy, 256.
Váldez, Fray José, 313.
Vera Cruz, navy hospital at, 105, *note;* road to Mexico City, 167; army post, 203, 212, 216; capital of intendancy, 256; governor of, 257.
Vetancurt, Fray Agustín, 307, 308.
Viceroy of New Spain, The, by D. E. Smith, 99.
Viceroy of New Spain, The, position and duties in 1770, 103; extent of jurisdiction, 103; threefold authority: civil and judicial, military, and ecclesiastical, 102, 103, 107 (*see* The viceroy as governor, The viceroy as captain-general, The viceroy as vice-patron); the non-military viceroy, 107; checks and balances upon powers of, 108–109; historical review of viceregal office, 109–120; viceroys appointed by king, 126; dignity and importance accorded the position of, 127, 154, 155; term of service, 127; salary of, 128; honesty of, 128; direct control over, maintained by home government, by royal decrees, 129; by presence of *visitador general*, 131, 132, 133, and by the *audiencia*, 131, 154; indirect control over, maintained by *residencia*, 129, 134, 135; authority of, to issue proclamations (*bandos*), 131; relations of viceroy to king, 135, 138, *note;* imperial representative in commercial and territorial expansion, 136, 137, 138; intermediary between Spanish government and Indian subjects, 138–141; duties of, with regard to slave trade, 141; relation to Mexican civil service, 141; dependence of, on home government as illustrated in the viceregal *instrucciones*, 142–146, 156–158; interference of the home government in matters of detail, 145–158, 246; dispute between viceroy and *audiencia* over military honors, 153–154; appointment of the *regent*, 154; dispute with *audiencia* over precedence, 155; the problem of the *Provincias Internas*, 155–156; extent of authority, 160; subdelegate of the post-office department, 169; confusion of executive and judicial functions, 164; the *real patronato* a minor function, 232; relation to subjects and to home country, 278–279; division of his civil functions, 281; decrees of, 302, 326; petition to, to abandon El Paso, 371, 372.
Viceroy as governor: civil duties of, 103–105; attacks on judicial functions of, 119, 161, 163; a local official, 160; as governor of Mexico, 161; pre-eminence of, 161; intendant of province of Mexico, 161; guardian of the natives, 161; loss of judicial powers, 161; enforcement of laws by, 162; president of the *audiencia*, 162; confusion of executive and judicial duties, 162; his four distinct judicial functions: (1) *corregidor* (judge of the City of Mexico), 163, 164; (2) *juzgado general de indios* (chief of the general Indian court), 164; (3) judge of cases from the postoffice department, and (4) from the *fuero militar*, 164; building of public works, 165–169; royal restrictions upon expenditures, 165; scheme of internal improvements, 169–170; supervision of public health,

170, 171, 172; head of the administration of the City of Mexico, 172; management of public utilities: street lighting, 173, 173 *note*; fire protection, 174; policing and regulating of public (city) markets, 175; water supply, 175; prevention of famine, 176; control and regulation of public granaries, 176, 177, of the meat supply (*abasto de carne*), 178; regulation of bull fights, 178, 178 *note*; fighting of contraband trade, 179; improvement of primary education, 179; of lot of workingman, 179; jurisdiction over public morals, 179–181; miscellaneous duties, 178, 179; regulation of the immigration question, 181; interest in charity and poor relief, 182–185; recommendations regarding craft guilds, 186; the *secretaría* of the viceroy, 186–190; administrative methods, 187.

Viceroy as captain-general: military (naval) authority of, 105, 106, 107; partial loss of military powers, 113; entrusted with protection and extension of colonial territory, 136, 137; military and naval representative of the king, 137; interference of the king in colonial military affairs, 143, 144; Spanish opinion of office of captain-general, 160; supreme judge of cases from the *fuero militar*, 164, 221; problem of the health of the troops, 171, 203, 214, 218; general description of office of, 193, 193, *note*, 194; list of Spanish provinces having captains-general, 193, *note*; importance of position and powers of captain-general, 194, 195, 196; military administration of New Spain, 197; commander-in-chief of army, 197; assisted by council of war (*consejo supremo de guerra*), 197; first assistant, the subinspector-general, 197, 197 *note*, 198, 198 *note*, 199, *note*, 200; head of the navy, 216; care for the housing, pay, equipment, and training, of the troops, 217, 219; general problems of, 222–227; general summary, 228.

Viceroy as vice-patron: civil head of the church, 107; custodian of the royal patronage, 230; harmony between civil and ecclesiastical authorities, 222–235; threefold duties of the vice-patron: (1) supervision of election of church officials (appointing power), 236, 237, 238; selection of curates, or parish priests, 239; appointment of fellows and professors in colleges, and of the diocesan visitor, 240; (2) administration of the *fuero eclesiastico*, 240; power of final decision in ecclesiastical cases, 233, 241; friction with tribunal of the Inquisition, 242, 243; (3) direction of education and charity, 244, 245; power over hospitals, 245; circumscription of powers, 246.

Viceroy of New Spain, history of, 1535–1776, 109–121; development of vice-regal office, 100; points of comparison with British and other colonial systems, 107, 120, 124, 127, 128, *note*, 129, *note*, 132, 139, 140, *note*, 149, 157, *note*, 158, 169, 194–195, 200, 229, *note*, 239, 278, 279–284.

Villaroel, cited, 114, *note*, 273, 286.

Virginia, assembly votes defense of Ohio country, 5; attitude toward Albany convention, 11; land patent seal fee imposed by governor, 73; dispute over, 75, 76; decision by British Privy Council, 76; bills providing funds for defense, 77; militia laws, 78, 79, 81, 82; issuance of bills of credit, 81; draft laws, 80, 82, 84; act imposing death penalty for mutiny and desertion, 84.

Visitor general (*visitador general*), of New Spain, powers, responsibility, and importance, 133, 286.

Washington, George, cited, 78, 83.

Wentworth, Benning, governor of New Hampshire, 24.

Yaqui River, 300.

Zacatecas, capital of intendancy, 256; discovery of minerals in, 296; treasury of, 325, 326.

Zavaleta, Father, 332, 358.

Zumas. *See* Sumas.

5676